No. 10387

United States
Circuit Court of Appeals
For the Ninth Circuit.

FRIEDRICH WALTER BERGMANN,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In Two Volumes

VOLUME II

Pages 365 to 647

Upon Appeal from the District Court of the United States for the Southern District of California, Central Division

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Rotary Colorprint, 590 Folsom St., San Francisco

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O. T. ELLIS,

called as a witness by and on behalf of the defendant, being first duly sworn, was examined and testified as follows:

The Clerk: Please state your name.

The Witness: Ellis. O. T. Ellis, E-l-l-i-s.

Direct Examination

By Mr. Howser:

Q. Where do you reside, Mr. Ellis?

A. Long Beach, California.

Q. How long have you resided in Long Beach?

A. Approximately 25 years.

Q. What is your business or occupation?

A. What do you mean by that? How I earn my living?

Q. How do you earn your living, yes.

A. Well, do I have to tell you everything? [342]

The Court: No, no; just don't start an argument here. You are starting off with a chip on your shoulder. You are a witness here. What do you do for a living; just say generally. If you are retired, say so.

The Witness: No, I am not retired.

The Court: What are you doing?

The Witness: I am a licensed real estate broker. That is one of them.

The Court: That is enough.

The Witness: All right.

The Court: That is a legitimate business.

Q. By Mr. Howser: Do you know Mr. Bergmann? A. Yes, sir.

(Testimony of O. T. Ellis.)

Q. How long have you known him?

A. Oh, approximately 15 years.

Q. Do you recall the circumstances under which you became acquainted with him?

A. Yes, sir.

Q. What were those circumstances?

A. I was putting on a subdivision down in the west end of Long Beach and Mr. Bergmann approached me to sell some palm trees that he had —he had a surplus of them—so I could have them placed around a portion of the property.

Q. Since meeting him in those 15 or 16 years, have you had occasion to converse with him on any occasion? A. Yes, sir. [343]

Q. How many times?

A. Oh, possibly one or two times a year or more.

Q. During the period of time that you have known him, has he ever engaged himself, to your knowledge, in any organization that is similar to the Nazi Bund or any other un-American organization? A. To my knowledge?

Q. Yes.

Mr. Dean: Just a moment. I am going to object to that as calling for a conclusion of the witness.

Mr. Howser: I might split the question up, your Honor, if necessary.

The Court: Does it call for his own knowledge or for a statement? Read the wording.

(Question was read.)

(Testimony of O. T. Ellis.)

Mr. Dean: I think it calls for a conclusion, your Honor, if I may say so, as to the word "subversive".

Mr. Howser: I did not use the word "subversive".

The Court: No, he said the "Bund".

Mr. Dean: Didn't you say "un-American"?

Mr. Howser: Yes.

Mr. Dean: I am sorry. I thought you said "subversive".

The Court: All right, it may be answered.

The Witness: Will you—are you ready for the answer?

The Court: Yes, we are ready.

The Witness: No, sir. [344]

Q. By Mr. Howser: Did you have occasion to have him in your home, Mr. Ellis?

A. Yes, sir.

Q. Do you recall when that was?

A. The approximate date is all.

Q. Approximately when was it?

A. I think the last time was about 1941, in the summer.

Q. Who was present?

A. Mrs. Ellis, myself and Mr. Bergmann.

Q. Did you, during that time, have occasion to discuss with him the matter of his citizenship in this country? A. Not that I recall.

Q. What conversation did you have with him at that time?

A. Oh, just a general conversation.

(Testimony of O. T. Ellis.)

Q. Was there any conversation with reference to his property?

A. Yes, yes, I think at that time.

Q. What disposition he would make of it upon his death?

A. Of the property or of the assets?

Q. Property, yes.

A. He said he had named the Y.M.C.A. and the Salvation Army as beneficiaries in his will.

Q. Have you ever had occasion to discuss with him the matter of certain British Islands?

A. Discussion to what extent? What do you mean by [345] that?

Q. As to who should own the British Islands adjacent to this country?

A. Not that I recall.

Q. Have you at any time other than—withdraw that, please.

Have you at any time discussed political matters with Mr. Bergmann?

A. Local political matters or national?

Q. National.

A. Not much of a discussion. I am not much of an arguer.

Q. It isn't a matter of arguing, Mr. Ellis. Do you recall having any conversation with him at all upon national political affairs?

A. Yes, sir.

Q. When?

A. Oh, I should say about two years ago.

Q. Where did this conversation take place?

(Testimony of O. T. Ellis.)

A. I believe that was down either on his property on the west side—I believe it was.

Q. Can you tell me who was present during the conversation? A. Just the two of us.

Q. Now, what was said?

Q. Well, you mean the exact words? [346]

Q. Well, in substance if you don't remember the exact words. A. In substance?

Q. Yes.

A. The substance of it was that we, that is, the United States, should be careful and protect our own interests and look after our own affairs here at home and not take too much of our time or energy trying to help other nations.

Q. Do you recall anything further at that time?

A. No. Perhaps there was an elaboration on that, but that is the gist of it.

Q. Do you recall at any time discussing with Mr. Bergmann the form and principles of the government of the United States of America?

A. No, I do not recall that.

Q. In your many conversations with Mr. Bergmann did he ever tell you or give you any reasons why he left Germany?

A. No, I don't recall of him ever telling me that.

Mr. Howser: Your witness, Mr. Dean.

Mr. Dean: No cross examination.

The Court: All right, step down.

The Witness: Thank you.

Judge, may I say a word?

The Court: No.

(Testimony of O. T. Ellis.)

The Witness: Thank you.

The Court: If you have anything to bring out that wasn't [347] brought out on your examination, you tell counsel. You can talk to him.

Mr. Howser: May I have a minute to see Mr. Ellis, to see what is bothering him, your Honor?

The Court: Yes, see what is ailing him.

Mr. Howser: Your Honor, Mr. Ellis did not want you to have the impression that he didn't want to cooperate or that he had a chip on his shoulder. He did not mean that.

The Court: Well, he started out that way.

Mr. Howser: That is right. That would be the inference; I agree with you.

The Court: I didn't know. I thought he was hard of hearing. He started out by telling how he wanted the oath restated, and I didn't know what it was.

Mr. Howser: That is right.

The Court: All right. I don't think any of us addressed any witness in a manner where a man must be frightened in this court. I don't even wear a robe. I am supposed to wear it, but I don't, so people can feel at home.

Step down.

(Witness excused.)

The Court: We will adjourn until tomorrow morning at 10:00 o'clock.

(Whereupon, at 5:05 o'clock P.M., November 18, 1942, an adjournment was taken until 10:00 o'clock A.M., November 19, 1942.) [348]

Los Angeles, California,
November 19, 1942,
10:00 A. M.

The Court: Are there any ex parte matters?
(No response.)
Mr. Jacobson: Call Mr. Trammell as our first witness.

GEORGE W. TRAMMELL, JR.

called as a witness by and on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

The Clerk: Please state your name.
The Witness: George W. Trammell, Jr.

Direct Examination

By Mr. Jacobson:

Q. Mr. Trammell, where do you reside?
A. Long Beach.
Q. You are engaged in what profession?
A. Lawyer.
Q. How long have you known Mr. Bergmann?
A. I should say about since 1937.
Q. During the period of your acquaintanceship have you had any conversations with him?
A. Yes, several.
Q. Do these conversations group themselves into any groupings? A. Three groups.
Q. What groups? [350]
A. The first group was during the time I was

(Testimony of George W. Trammell, Jr.)

City Attorney of Long Beach and during the time the city was preparing a regulatory ordinance governing the development of the harbor oil lands. I would say that was the latter part of approximately '37, 1938 and 1939, along in there.

The next time was last year, roughly between August and November, when he came to me to act as his attorney in a matter.

The next time is since this matter. I have seen him since this case has come up.

Q. That is, he came in and talked to you after the summons was served upon him in this action?

A. Yes.

Q. With reference to the conversations you had with him when you were City Attorney, I presume most of them were in your office in the City Hall?

A. Yes.

Q. What was the general nature of them?

A. Primarily with respect to the regulatory ordinance which the city either was or had adopted for the drilling of the harbor oil lands.

Q. During any of these conversations were personal matters discussed? A. Yes, sir.

Q. Did you have any discussion with him as to his being a citizen of this country? [351]

A. I don't remember at that time discussing that with him, no.

Q. Were there any discussions at that time about his political beliefs on foreign policy?

A. Not at that time.

(Testimony of George W. Trammell, Jr.)

Q. Were there any discussions with him about what disposition he intended to make of his property?

A. I believe at that time he told me he was going to leave his property to the Y.M.C.A. of one of the cities in Canada—it was either Toronto or Montreal—and the rest of it to the Y.M.C.A. here in the United States; and told me about when he had been in the Y.M.C.A. up there in Canada, about coming from—well, when he left Germany.

Q. Now, in this second period which you say occurred within the past year—— A. Yes.

Q. During what month?

A. Roughly, I would say from August probably towards the latter part of November.

Q. Of 1941? A. Yes.

Q. How many times would you say you saw him during those months?

A. I am guessing. I would say probably fifteen or twenty times.

Q. At your office in the Security Building? [352]

A. All except one. I saw him once at his property down on West Seaside Boulevard.

Q. He consulted you professionally, did he?

A. Yes, sir.

Q. On business matters? A. Yes.

Q. Now, in the course of these discussions, do you recall any discussion that turned on the question of his American citizenship? A. Yes.

(Testimony of George W. Trammell, Jr.)

Q. Can you place the time at all?

A. It was during those conversations. Which one, I don't know.

Q. Do you recall substantially what was said by Mr. Bergmann?

A. I remember on several occasions he stated that he was an American citizen and seemed to be quite proud of the fact.

Mr. Dean: Just a moment. I ask that that be stricken as a conclusion of the witness.

The Court: You had better tell us how he expressed that, Mr. Trammell.

The Witness: As I recall, there was some question relative to the use which was being made of Seaside Boulevard, which was directly in front of his property. Lumber had been piled up and was piled up out in front of his property at [353] that time, and also there was a donkey engine which was erupting quite a bit of smoke from it and going over on his property. He made a complaint to the harbor department about that and said that he was an American citizen; that it would seem to him that American citizens should have just as much right in that street as the lumber people or the harbor department. That is the best that I can remember the way it came up. I do remember that he mentioned his citizenship on several occasions.

Q. By Mr. Jacobson: Was any remark made in that conversation or any other conversation about the democratic processes?

(Testimony of George W. Trammell, Jr.)

A. At one time, yes.

Q. Was that in your office? A. Yes.

Q. What was said by Mr. Bergmann about the relative speed or value of the democratic processes?

A. How it came up, I don't remember; but it was to the effect that——

Mr. Dean: Excuse me, just a moment. Could we have the time of this particular conversation?

Mr. Jacobson: I don't think he knows.

The Witness: I can't tell you. It was last year there on one of his visits to me at the office; something to the effect about the German government, about the efficiency of getting things done, but he stated that he guessed, however, [354] that was the price we had to pay for democracy.

Q. By Mr. Jacobson: That is, it was——

A. That is in effect what he said.

Q. Did you ever discuss with him last year the question of the disposition of his property after his death? A. Yes.

Q. That took place during those same months?

A. Yes.

Q. Do you recall what he said he wanted done with him property? A. (Pause.)

Q. As you recall it, what did he say he wanted done with his property?

A. That is what he came to me about. The first thing he came to me about was seeing if he could get the condition there of the lumber on the street and the donkey engine corrected.

Q. That was corrected, wasn't it?

(Testimony of George W. Trammell, Jr.)

A. I beg your pardon?

Q. That was corrected eventually?

A. Yes, that was corrected; and he asked me to take that up with the harbor department, which I did.

Then I suggested to him why didn't he dispose of that property—I am speaking now with respect to the property there on West Seaside Boulevard —he said, "Well, what would you suggest?" [355]

I said, "Why don't you sell it to the city?"

He said, "I would like for them to have that for a museum or a park."

And I said, "Well, I don't think the city would want to have a park or a museum down there in the harbor department." I said, "Why don't you see if you can dispose of it to the harbor department."

And he said, "All right." He said, "When you talk to them, see if they would be interested in acquiring it."

Then I asked him upon what terms did he want to make an offer to the city, and he said he would think it over and would let me know.

Then he brought back—he had it all written out; I don't have it with me, but I do have it at the office—the terms upon which he would dispose of this property, and he agreed to dispose of it to the city.

Mr. Dean: Excuse me just a moment. I object to this if it is a recitation of what is in the docu-

(Testimony of George W. Trammell, Jr.)

ment on the ground it is not the best evidence and further it is immaterial.

Q. By Mr. Jacobson: To what document are you referring, Mr. Trammell; your own office notes or the contract or what?

A. No, no, not a contract. In other words, a memorandum that he gave me of the terms upon which he would dispose of it to the city. He gave it to me for my information.

Q. Let me interrupt at this point. No deal was ever consummated with the Harbor Department? [356]

A. No.

Q. But did the conversation then or later go into the question of how he would dispose of his property at his death?

A. Why, he said it there, if the city would purchase that property, if anything should happen to him that without any further payment the city should have that property. That was part of it. That if anything were to happen to him, then all payments were to stop and the city was to have that property without any further payment. I asked him at that time what effect that would have upon his relatives and he said they were all very well provided for and that he had willed half of his property to the Y.M.C.A. in Canada and half of it down here at the Y.M.C.A. in Long Beach. He told me that again at that time.

Q. You never saw Mr. Bergmann's will, of course, yourself? A. Oh, no.

(Testimony of George W. Trammell, Jr.)

Q. At least, you have never read it?

A. No. That is the only discussion, as I recall, I have ever had about that.

Q. Did you ever have a discussion or did the question ever come up in your conversations with him about his preference in the way of where to live and reside? A. Yes.

Q. Was that in one of these conversations?

A. Yes. [357]

Q. Will you state what he said?

A. I asked him what type of investment he thought was the best type of investment, and he said, "Real estate."

I said, "Where"?

He said he had made a very thorough study and that he felt not only was Southern California the best place to live but was also the best place to make an investment, and that of all of Southern California, he thought Long Beach was the best place, and he even went on down to a certain district there that he described in Long Beach as being the best place within which to make an investment.

He gave me the boundaries. As I recall it, it was something like this: Bounded on the west by Golden and on the north by Kent and on the east by Atlantic. He gave me the reasons why he felt that was the best place in which to invest in real estate.

I remember asking him, "Did he feel that that was better, Long Beach was better than, say, Los

(Testimony of George W. Trammell, Jr.)

Angeles," and he said yes, that he felt that his experience had been that that was a better place to invest his money.

Q. Did he express any preference as to where was the best place to live?

A. At that time he said he felt that not only was this place, that is, Southern California and Long Beach, the best place within which to make investments, but it was also the best place he knew of in the world in which to live. [358]

Q. In your conversations with Mr. Bergmann, were any subjects of national or international politics discussed, such as isolationism or interventionism?

A. I remember one time there was some discussion about that, and he brought me a little pamphlet. I don't remember what pamphlet it was. It was one of these reprints by one of the senators. I don't remember which one and I didn't read it.

Q. Well,——

A. It was on the question, as I remember, of intervention and non-intervention.

Q. Was there any discussion about the British Islands? A. Yes, sir.

Q. What was said about that?

A. I don't remember the exact words. In evidence of any antipathy of the ruling class, he spoke very highly of what he called the common people of England, but he did have an antipathy towards

(Testimony of George W. Trammell, Jr.)
the—I believe he called them the barons, the dukes and the ruling class.

Q. Did you ever talk about Germany with him?

A. Some.

Q. Will you state what was said by him in that connection?

A. As I recall, he stated that he felt a person had a much better chance over in this country where one could start over anew than they did over in Germany. [359]

Q. Did he talk about Hitler?

A. That one time there is the only time I heard him mention Hitler. I repeated that already. That is the only time I have ever heard him mention Hitler.

Q. That conversation you just repeated didn't have anything to say about Hitler. You just spoke of Germany. A. That is right.

Q. What I had in mind was, did you ever hear him discuss Hitler?

A. One time there something came up and he said something to the effect that Hitler did get things done but he guessed that after all maybe not getting things done so fast is one of the prices we had to pay for democracy.

Q. Was there any discussion of miltarism in any of these conversations? A. No.

Q. Referring to this third group of discussions you mentioned earlier in your testimony, that was after the suit was filed? A. Yes.

Mr. Jacobson: I think that is all, Mr. Dean.

(Testimony of George W. Trammell, Jr.)

The Court: All right, Mr. Dean.

Cross Examination

By Mr. Dean:

Q. Mr. Trammell, did Mr. Bergmann ever talk to you about his ethnological collection or archaeological collection [360] of specimens?

A. Yes, sir.

Q. Did he tell you he intended to leave that to any individual or municipality?

A. At the time he mentioned there that he would like for the city to have that property, he seemed to primarily want a museum or library there.

Q. What date was this?

A. That was last year. It is in one of those conversations I have with him the latter part of August and up through November there.

Q. You recall definitely he mentioned his collection in connection with the museum, do you?

A. As I recall, it was to the effect that he would like for the city to have something, or some collection of something. He would like for them to have a museum there and also about the plants. He had a lot of plants on this property that he would like for them to have those. He seemed primarily to be interested in a museum or library there on that property.

Q. Now, these pamphlets, or this pamphlet he showed you, do you recall, Mr. Trammell, whether or not it was a pamphlet written by Senator Nye?

(Testimony of George W. Trammell, Jr.)

A. I frankly don't know.

Q. Or Senator Wheeler?

A. I don't remember.

Q. Do you recall whether or not the America First [361] Committee has anything to do with it?

A. I frankly don't remember.

Q. You didn't read the pamphlet yourself?

A. Not that I recall.

Q. Do you recall distinctly that Mr. Bergmann said his relatives were all well provided for in Germany?

A. As I recall, when I asked him what about taking care of his relatives, he said they were taken care of.

Q. "Taken care of"? A. Yes.

Q. Did you ever hear him mention his father?

A. No, sir.

Q. Or any of his relatives in particular, specifically? A. No, sir.

Q. He used the plural term "relatives." Is that correct?

A. As I remember it, it was that.

Q. During the first group of conversations, Mr. Trammell, you stated that you were then City Attorney at Long Beach? A. Yes, sir.

Q. What time did you terminate your employment with the city?

A. I went out of office in July, 1939.

Q. Between the first and second group of conversations. Is that right? [362]

A. (Pause.)

(Testimony of George W. Trammell, Jr.)

Q. You classified these conversations in three groups. It was between the first and second group? A. Yes.

Q. Now, with reference to Mr. Bergmann's statement that Southern California was the best place to live, is that your best recollection of the way he put it? A. As I remember, yes.

Q. In other words, your fairly sure he didn't say "It is the best place for me to live"?

A: I didn't get that, no, sir.

Mr. Dean: That is all the cross examination.

Mr. Jacobson: May I ask a question I forgot, your Honor?

Redirect Examination

By Mr. Jacobson:

Q. Mr. Trammell, I meant to ask you when Mr. Bergmann came to see you after this action was filed, was there a discussion about what he should do with the holographic will he had prepared?

A. Yes.

Q. Well, did he have what purported to be a holographic will with him?

A. No, sir; I never saw a will.

Q. What was the conversation about what to do about it?

A. He asked me did I remember the conversations, our [363] previous conversations, and I said yes.

Q. Did he ask you what he should do about the will?

(Testimony of George W. Trammell, Jr.)

A. I think he did, and I said, "You should preserve that will."

Q. "To preserve it"? A. Yes, sir.

Mr. Jacobson: That is all.

Recross Examination

By Mr. Dean:

Q. Did Mr. Bergmann ever indicate to you that he wanted you at some time to draw a will for him, Mr. Trammell? A. No, sir.

Q. He never did? A. No, sir.

Mr. Dean: That is all.

The Witness: May I be excused?

The Court: Yes, you may be excused.

The Witness: Thank you.

(Witness excused.)

The Court: Call your next witness.

Mr. Jacobson: Mr. Henry Rohrs.

HENRY ROHRS

a witness called by and on behalf of the Defendant, having been first duly sworn, was examined and testified as follows:

The Clerk: Please state your name.

The Witness: Henry Rohrs. [364]

The Clerk: R-o-h-r-s?

The Witness: R-o-h-r-s, yes, sir.

(Testimony of Henry Rohrs.)

Direct Examination

By Mr. Jacobson:

Q. Where do you live, Mr. Rohrs?

A. 736 Walnut Avenue, Long Beach.

Q. What trade or occupation do you follow?

A. At the present time I am City Gardener of the City of Long Beach.

Q. How long have you lived in Long Beach?

A. Going on eighteen years.

Q. Are you a veteran of the First World War?

A. Yes, sir.

Q. During your residence in Long Beach you have had occasion to become acquainted with Mr. Bergmann, have you? A. Yes, sir.

Q. About when would you say it started; the acquaintance?

A. Why, back in 1928 I knew Mr. Bergmann. That was about the time I went to work down on the west side and Mr. Bergmann had property down there and used to come through the park quite often.

Q. Was Mr. Bergmann interested in plants and trees? A. Yes, quite interested.

Q. I suppose there were conversations about those things between you? A. Yes, sir. [365]

Q. Now, at one time you had a little home in Garden Grove, didn't you? A. Yes, sir.

Q. Did Mr. Bergmann ever come to your home there?

A. Yes, he came to our home. I think it was

(Testimony of Henry Rohrs.)

either 1937 or approximately '38. Anyway, it was during the winter that we had the cold snap, the real cold snap. I had a couple of palm trees there that I donated to Mr. Bergmann if he would dispose of them. He wanted them for his property over in Long Beach.

Q. When he came over there, was he there some length of time?

A. Yes, sir; he was there about—well, Saturday afternoon and then he came back on Sunday.

Q. On either one of these days did you and Mr. Bergmann find time to have any conversations other than about getting the trees dug up?

A. Oh, yes, we became quite personal. He brought his lunch over and we made coffee and he had lunch with us, with myself and wife; but our conversation roughly was on the outside when we were there at work. The conversation covered the political and foreign affairs. Being a World War veteran I mentioned about the foreign affairs, you know, and he was greatly opposed to——

Mr. Dean: Just a moment.

Mr. Jacobson: That is fine, Mr. Rohrs. [366]

Q. By Mr. Jacobson: Did this conversation run over a period of both days, or do you think it happened one Saturday or Sunday?

A. I think it was Saturday, Saturday afternoon.

Q. I believe you just stated that probably most of it was between you and Bergmann.

A. Yes, sir.

(Testimony of Henry Rohrs.)

Q. Your wife possibly might have been present? A. No, she was in the house.

Q. Now, in this conversation, I will direct your attention to the question of whether or not Mr. Bergmann made any statements regarding where he liked to live or did live; residence in other words?

A. Well, he liked Long Beach pretty well.

Mr. Dean: Just a moment. If this is a statement of Mr. Bergmann, I have no objection, your Honor. I just want to be sure.

The Court: I assume you are quoting him, aren't you?

The Witness: Yes. He mentioned he liked Long Beach.

The Court: He had been there long enough on that property?

The Witness: Yes, sir.

Q. By Mr. Jacobson: Did he express liking any other part of the world if he weren't living in Long Beach?

A. He liked the Islands. We mentioned the Philippine and Hawaiian Islands and, of course, it has been quite a while ago and I don't recall; but he liked the different Islands. [367] He thought they were very fine places.

Q. Did the subject of isolationism or interventionism come up? A. Yes, sir.

Q. What did Mr. Bergmann say about that subject; about how he felt about that?

(Testimony of Henry Rohrs.)

A. He didn't think we had any business to interfere with the foreign entanglements, to interfere with the other countries; that we should mind our own business.

Q. Did any question or discussion come up about his shell collection and archaeological collection?

A. Yes. I had asked him—being a single man I asked him what he intended to do with his collection and, of course, other things too that came up in the course of the conversation, and as near as I can remember it he said something about donating them to the Los Angeles Museum or some museum at some future date.

Q. Had you ever seen his collection?

A. No, sir.

Q. Was anything discussed that afternoon about Mr. Bergmann's views on inherited class titles and class distinctions?

A. Yes, that came up. In fact, I brought that subject up myself. I was over in France and England and we discussed about the nobility and the aristocracy and Mr. Bergmann had no use for nobility, the upper classes. [368]

Q. Wait a minute. Is that the conclusion you come to or did he say that?

A. No, he said that.

Q. Did he elaborate at all on the statement?

A. Yes.

Q. Well, give us all you can remember. I don't suppose you made any notes of what you discussed.

(Testimony of Henry Rohrs.)

A. No, I don't remember so much about it other than that he was opposed to it.

Mr. Dean: Just a moment. I object to this as being a conclusion of this witness.

Q. By Mr. Jacobson: Just what he said in substance. You don't have to quote his exact words, but give the substance of it.

A. He didn't have any use for the nobility, for the aristocratic or "royalty" as we discussed it there.

Q. Did anything come up about England or the English people?

A. Well, as near as I can remember, in the course of my discussion with Mr. Bergmann, or our talk, why, it was that the monied class, certain monied class, nobility, ruled England and was pretty much responsible for the world condition.

Q. Was there any talk about Germany, about Mr. Hitler—Germany or militarism?

A. Yes. I asked Mr. Bergmann what he intended to do [369] with all of his money or his collections, the things that he had—we got pretty personal there—and he said he was going to leave it to the Y.M.C.A.; that is, leave part of it to charity, the Y.M.C.A. and his collection, of course, he said to the museum.

He also said he had a mother over there, an elderly woman, and I asked him if he had ever been back there to Germany to see her and he said no.

I said, "Well, did you ever think of bringing her over here?"

(Testimony of Henry Rohrs.)

And then he said he couldn't go back to Germany to see her because he had left Germany to evade the military training and they probably would arrest him if he went back.

Q. Did he ever mention Mr. Hitler?

A. No, sir. I don't recall anything about Hitler. In fact, I know he didn't because I didn't know Mr. Hitler at the time of our conversation or anything about him. I wasn't reading much about him at that time. I didn't give it any thought.

Q. Do you remember with reference to whether or not Hitler—I mean to fix this conversation, had Hitler invaded any of those countries at that time?

A. No, sir.

Q. That hadn't happened yet? It was prior to that time? A. Yes. [370]

Mr. Jacobson: I think that is all.

Cross Examination

By Mr. Dean:

Q. Mr. Rohrs, you have related considerable conversation you had with Mr. Bergmann concerning the monied class in Europe—— A. Yes.

Q. ——and in England. A. Yes, sir.

Q. Did you have any conversation with Mr. Bergmann concerning the monied class in the United States?

A. No, not exactly the monied class. That is, we talked of our economic system here but——

Q. You have answered my question.

(Testimony of Henry Rohrs.)

Did Mr. Bergmann ever mention the name of President Roosevelt in connection with his discussion with you?

A. No, sir; I don't recall it.

Q. You recall rather distinctly, do you, that Mr. Bergmann said he was going to leave his collection to some county museum. It that right?

A. That is the understanding, yes.

Q. You have stated that you were interested in foreign affairs; that you discussed foreign affairs with Mr. Bergmann. Do you mean to say you never during that discussion mentioned the name of Adolph Hitler? A. No, sir. [371]

Q. You knew Mr. Bergmann was a German, of course?

A. I knew he was of German descent. I am too; born in this country, though.

Q. How long ago did you say this conversation took place?

A. Well, it was back in—I believe 1937 or '38. It was the year we had that real cold snap. I was living out on the ranch at that time.

Q. About five or six years ago?

A. Yes, sir.

Q. How long would you say the conversation took? About how much time did it consume?

A. Well, now, I wouldn't know. We were working there—he was working there and I was standing around watching him off and on. I wasn't with him all the time.

(Testimony of Henry Rohrs.)

Q. It might have taken place in 1936 but you couldn't say as to that?

A. No. It was the year we had the cold snap. It was prior to the cold snap. It was in the late summer or fall, somewhere around in there.

The Court: Well, which cold snap are you referring to?

The Witness: The one we had four or five years ago.

The Court: We have had several in the last ten or fifteen years.

The Witness: This is where it froze everything. It was probably four or five years ago. [372]

The Court: That was before that, wasn't it? That was in '34, the year after the earthquake, wasn't it?

The Witness: No, sir, it was four or five years ago that we had that real cold snap.

The Court: When was the earthquake? '32, wasn't it?

The Witness: March, '33.

The Court: The following year was the cold year, don't you remember? Some people tried to attribute it to the earthquake.

The Witness: Well, of course, I don't just remember the exact time.

The Court: I don't remember, either, but you are trying to recall a date. Cold is a relative term. Now, in South America they have a country where it hadn't rained for 30 years, but for one hour 30

(Testimony of Henry Rohrs.)

years ago it did rain and they call that the rainy year. Cold is also a relative term.

The Witness: All right; I will make it a little plainer then.

The Court: We want to find out the time.

The Witness: It was the year we had so much smudge over the country. That was the year it was so cold.

The Court: If you were out in Pomona, they would tell you they have it every year.

The Witness: Yes, but we had it down to 20 below and we don't have it that way every year.

The Court: I don't know. Perhaps I am wrong.

[373]

The Witness: It was probably five or six years ago. I just don't remember the exact date.

Q. By Mr. Dean: Do you read the newspapers pretty regularly? A. Some, yes.

Q. You say at the time of this conversation you hadn't read much about Adolph Hitler?

A. No, I don't recall that I did at this time.

Mr. Dean: I think that is all the cross examination.

The Court: All right, sir. You may be excused.

(Witness excused.)

The Court: Call your next witness.

Mr. Howser: Mr. Grant.

LOUIS N. GRANT

a witness called by and on behalf of the defendant, being first duly sworn, was examined and testified as follows:

The Clerk: Please state your name.

The Witness: Louis N. Grant.

Direct Examination

By Mr. Howser:

Q. Mr. Grant, what is your business or occupation?

A. Clerk in the Farmers and Merchants Trust Company at Long Beach, California.

Q. Where is that bank located?

A. At 3rd and Plain in Long Beach.

Q. How long have you been so occupied? [374]

A. Since October of 1925.

Q. Are you a married man? A. Yes.

Q. How long have you lived in Long Beach?

A. Since October, 1925.

Q. Are you acquainted with the defendant Mr. Bergmann? A. Yes, sir.

Q. How long have you known him?

A. Since June or July of 1932.

Q. Do you recall the circumstances of your meeting him?

A. Yes. At that time I was handling the foreclosures under deeds of trust for the Farmers and Merchants Trust Company and Mr. Bergmann came in to discuss the foreclosure of a deed of trust, I believe, covering some of this harbor property that he owns.

(Testimony of Louis N. Grant.)

Q. Did you transact business with him?

A. Yes. He left the papers and we prepared the notices and did foreclose that trust deed for him.

Q. Have you had occasion to foreclose more than one piece of property for him? A. Yes.

Q. Over what period of time?

A. Oh, I believe the next one was about a year later, or it might have been '34. It was between '32 and '34 that we transacted this business.

A. About how many years have you had dealings with him [375] in that respect?

A. Oh, I believe three years covers those foreclosures.

Q. During that period of time do you know where Mr. Bergmann resided?

A. Yes, I did. He invited me over to lunch one noon which he had prepared himself. I don't remember the address, but it was on West 6th Street, I believe, over in that area some place. He told me that that was where he lived. He had a small apartment.

Q. During these years of business with him do you know whether or not he took any trips to the South Sea Islands?

A. I know that he took trips and he told me, I think—the one I remember particularly was to Samoa.

Q. Do you recall approximately what time that was?

A. No, but I believe it was closer to '34 than '32. I couldn't remember.

(Testimony of Louis N. Grant.)

Q. You had a conversation with him at that time?

A. Yes.

Q. Where did that conversation take place?

A. Well, I had several conversations with him both in the office and at his apartment.

Q. During these conversations were there any other persons present?

A. At his apartment, no; but in the office, of course, our office force was always present.

Q. I mean people who participated or listened to the [376] conversation. A. No.

Q. Now, the last trip that you were just about to tell us, where did that conversation take place?

A. He commenced a foreclosure and told me he would be out of the country in Samoa when the time for posting the notice for the sale came up. He came into the office before it was time to post the notice, so I was surprised that he was back early.

Q. Did you have a conversation at that time?

A. Yes. I asked him why he came back so soon and he told me that he found his visa—I believe he said "visa"—was about to expire and that he wanted to get back in this country before that expired.

Q. Have you ever had occasion to discuss government with Mr. Bergmann?

A. No, we never discussed politics.

Q. Did you ever have occasion to discuss international affairs with Mr. Bergmann?

A. No, not from the standpoint of international affairs.

(Testimony of Louis N. Grant.)

The Court: Your relation with him was purely business, isn't that the idea?

The Witness: Except for the fact that this one day I went to lunch.

The Court: Well, that is all right.

The Witness: I was a little curious about a single man [377] with all the *month* that he apparently had, and which I know something about through my banking connections, living as he lived, so I questioned him about it.

The Court: I see.

Q. By Mr. Howser: Have you ever had occasion to see his exhibits?

A. Yes. At his invitation I went up one day to the Los Angeles Museum while he was, as he told me, setting them up or doing some work with them. The day I went up there he wasn't there, so I didn't go over them. I just knew where they were. That was all. I didn't examine them.

Q. Have you ever had occasion to converse with him as to the exhibits?

A. Only when he brought—one trip, I forget which one, when he came back from one of these expeditions and told me he had so much of this stuff that he had found in these caves in Samoa, I believe he said.

I asked him what he was going to do with all of it. He was a single man. And he said that some day he would give it to the—I don't remember whether he said the Los Angeles Museum or to whom, but he was going to leave it to some museum.

(Testimony of Louis N. Grant.)

Q. When was that, Mr. Grant?

A. That was in his apartment, the one time I went to lunch with him.

Q. In period of time, can you tell us when that was? [378]

A. Well, I believe that was nearer '32 than '34. I couldn't remember the date.

Q. Now, Mr. Grant, you say you have known Mr. Bergmann for approximately ten years?

A. Yes.

Q. Have you at any time during your conversations with him ever heard him criticize this government of ours?

Mr. Dean: Excuse me just a moment. I think the question has been asked and answered, your Honor. He said he had no conversation concerning politics or governmental or international affairs.

The Court: I will overrule the objection. This witness' testimony dates so far back and hasn't been brought down to date, I think the answer to the question, in view of the previous questions, doesn't mean very much one way or the other. He hasn't testified he talked to him any time subsequent to '34. That is nearly ten years ago. Germany was still a republic under the republican constitution.

Mr. Howser: Maybe I have misled the Court by my questioning of the witness.

Q. By Mr. Howser: Mr. Grant, have you had occasion to see Mr. Bergmann subsequent to the year 1934? A. Yes.

Q. Over what period of time?

(Testimony of Louis N. Grant.)

A. Well, from then on up until now occasionally.

Q. How often have you seen him? [379]

A. Oh, probably twice or three times a year.

Q. Do you recall when he obtained his citizenship?

A. I do not, but I recall him telling me one day that he was an American citizen when I met him in the Bank of America in Long Beach.

Q. Now, do you recall the approximate year that was?

A. No, except that it must have been more than four years ago.

Q. Do you recall the incident of Mr. Bergmann terminating his—I will put it this way: Did Mr. Bergmann ever terminate his business with your bank? A. Yes, he did.

Q. When?

A. I don't recall the date, but I do recall there was a misunderstanding and he severed all his connections with our bank and took his business, I presume, to 4th and Pine because that is the place where I saw him periodically thereafter.

Q. Do you know what year he took his business out of your bank?

A. I do not. I could determine that, but I don't know.

Q. Have you had occasion to discuss within the last four years—withdraw that, please.

Have you had occasion to converse with Mr. Bergmann on meeting him in the last four years? [380]

A. Yes, when I would meet him in the bank. Several times I made it a point to talk to him with

(Testimony of Louis N. Grant.)

the idea of getting him to return to our bank—return his business to our bank, but we never discussed that. We did discuss casual things, though.

The Court: Well, then, the upshoot of the whole thing is this: That in the last five years your discussions were mostly relating to personal affairs, some investments and the like, and that you never discussed politics or world affairs or anything.

The Witness: No.

The Court: Is that correct?

The Witness: That is correct.

The Court: All right.

Mr. Howser: That is all.

Mr. Dean: Just one question on cross examination, your Honor.

Cross Examination

By Mr. Dean:

Q. Mr. Grant, you are reasonably certain that about in 1932 or '33, Mr. Bergmann told you he planned to leave his collection to the Los Angeles County Museum?

A. I don't remember. I assumed it was the Los Angeles County Museum because he said he would leave it to a museum and, later, I think he did have it up there and was working up there setting it up.

[381]

Mr. Dean: That is all, your Honor.

The Court: All right.

(Witness excused.)

The Court: I think we will take a short recess before we call the next witness.

(A short recess was taken.)

The Court: All right, gentlemen, proceed.

Mr. Jacobson: Mrs. Mason, will you take the stand, please.

DOLORES MASON

a witness called by and on behalf of the Defendant, being first duly sworn, was examined and testified as follows:

The Clerk: Please state your name.

The Witness: Dolores Mason.

Direct Examination

By Mr. Jacobson:

Q. Mrs. Mason, you live in Long Beach?

A. Yes, sir.

Q. How long have you lived in Long Beach?

A. Since 1933.

Q. Is that before or after the earthquake?

A. After.

Q. That was in March, was it not?

A. Yes, sir.

Q. Have you had occasion to become acquainted with Mr. Bergmann while he lived in Long Beach? [382]

A. Yes sir; I was his neighbor for about four years.

Q. What years were they?

A. 1933 to 1937.

(Testimony of Dolores Mason.)

Q. Where did you live?

A. At that time I lived at 69 San Diego Avenue. It is right around the corner from Mr. Bergmann's Seaside Apartment.

Q. At that time what was your husband's name?

A. Stanley Mason.

Q. Stanley Mason? A. Yes, sir.

Q. Was he in the Navy? A. Yes, sir.

Q. Did you try to fix—strike that.

You have had conversations, I suppose, with Mr. Bergmann? A. Yes, several of them.

Q. I suppose it was on general things like his plants and shrubs? A. Yes, sir.

Q. That isn't what I am referring to now, Mrs. Mason. I have in mind the conversation relating to your husband being in the Navy. Can you fix that by year and month?

A. I can fix two of those conversations; one before my husband's death, which—well, it would have happened in about 1933 or 1934. Being in the Navy, my husband was gone a whole lot, and like a lot of young people I was resenting the fact. [383]

Q. Well, now, did you talk to Mr. Bergmann about that? A. Yes, sir.

Q. Just who was present? A. Pardon?

Q. Who was present and where did it happen?

A. Well, I went by Mr. Bergmann's property one day, and I was telling him I was lonesome.

Mr. Dean: Excuse me. I didn't catch that date, counsel. I am sorry.

Mr. Jacobson: 1933 or '34.

(Testimony of Dolores Mason.)

The Witness: It would be in the fall of '33 or the spring of '34.

Mr. Dean: Thank you very much.

The Witness: First, I had been admiring his flowers and was rather athletic myself and, for that reason, I had admired Mr. Bergmann because he was that type.

I was kind of blue that day, telling him I resented the fact my husband was away. He told me that wasn't the way to do things; that there was everything in this country. If I enjoyed flowers and things, to get down next to the earth, was his words; and there was everything in this country, if I would just go out and get it. He said that everything was mine and that that boy was away and if I wanted him proud of me that that was the thing to do.

He was so very proud——

Mr. Dean: Just a moment, please. I object to any [384] conclusion or opinion of the witness.

Q. By Mr. Jacobson: You started to say he was so very proud. Are you quoting Mr. Bergmann or are you giving an opinion?

A. I am quoting Mr. Bergmann.

I have been an American all my life, born here and I take these things for granted. Mr. Bergmann doesn't.

Q. What did he say about his American citizenship?

A. He told me that one thing he was proud of was that he could come here, he wasn't stopped, he

(Testimony of Dolores Mason.)

could do anything he wanted; that all the opportunity he wasnted was right there.

Q. Was that about all the conversation?

A. At that time, yes, sir. There were several conversations along about that time, but they were all very much the same way.

Q. Were you a bride then? A. Yes, I was.

Q. And your husband, what was he—on foreign duty, or something?

A. No. His ship had been sent around the east coast. At that time he was on the Chicago and had gone to the east coast for several months.

Q. Then you had the blues?

A. And I had to stay here.

Q. Well, you had at least this particular conversation? A. Yes. [385]

Q. Now, then, when was the next conversation you referred to a moment ago?

A. Well, I hadn't seen Mr. Bergmann from 1937 until the spring of this year. I had moved into another section of Long Beach, and I had traveled and one thing and another during that time. I came back to Long Beach and had occasion to visit some friends in the same district that Mr. Bergmann lived in. I was there several days. It wasn't just an hour visit. I was staying with them for several days. I happened to see Mr. Bergmann and I went up to him and asked him if he remembered me, and he did. I asked him if he remembered my husband. He said yes, and I told him that my husband's ship

(Testimony of Dolores Mason.)

had been torpedoed and he had been killed in the battle of Midway.

Mr. Bergmann, just for a minute, didn't say anything and he took me by both my arms, like this (indicating) and said—I was very much downhearted—"Don't be like that, little girl." He said, "Get your chin up." He said, "That man was fighting for you and if you want to make him proud of you, you get out here and get yourself a job and out of these dumps."

Now, those were his words to me.

Q. Was anything else said?

A. No, the rest of the conversation was just along that line.

Q. In any of your visits with Mr. Bergmann did you ever [386] hear him criticize our form of government?

Mr. Dean: Just a moment. I think that is a leading question, your Honor. I object to it on that ground.

The Court: She may answer.

The Witness: No.

Q. By Mr. Jacobson: Are there any other conversations with you had with Mr. Bergmann along the lines you have testified other than these two?

A. Well, yes, there was one conversation with Mr. Bergmann. It was in 1936. It would have been the spring of 1936.

Q. Where did it take place and who was there?

A. Mr. Bergmann was working on the Seaside

(Testimony of Dolores Mason.)

property, and I passed by, and, as usual, had stopped in a neighborly way, and talked to him.

In order to make you understand what I mean, I will have to explain something. That west side where we lived and where his property is—well, it could be compared to around the Plaza here. It is very much the slums of Long Beach. It is cheaper rents, and mostly Navy wives live there. I was telling him how nice his property looked, and what not. He said yes, he wished that he could make that a park or something so that people down in our end of town who couldn't afford some of the other things would have at least that much beauty. That is what he told me about his property at that time.

[387]

Q. Now, have you had any other conversations that you recall?

A. I have had several, but they have all been just about the same, along the same lines; nothing outstanding in any of them; just a neighborly good morning.

Mr. Jacobson: You may cross examine.

Mr. Dean: No cross examination.

Mr. Jacobson: May she be excused, your Honor?

The Court: Yes, she may be excused.

(Witness excused.)

The Court: Call your next witness.

Mr. Jacobson: Mr. Kammerer.

EDWIN KAMMERER

a witness called by and on behalf of the Defendant, being first duly sworn, was examined and testified as follows:

The Clerk: What is your name?

The Witness: Edwin Kammerer, K-a-m-m-e-r-e-r.

Direct Examination

By Mr. Howser:

Q. Mr. Kammerer, where do you reside?

A. 1121 Pacific, Long Beach.

Q. How long have you lived in Long Beach?

A. 23 years.

Q. Are you a married man? A. Yes, sir.

Q. With a family? [388] A. Five children.

Q. What is your business or occupation?

A. Real estate loans and insurance, and I am working at Cal-Ship on the swing shift.

Q. Do you know the defendant, Walter Bergmann? A. Yes, sir.

Q. How long have you known him?

A. About 18 or 19 years.

Q. Do you recall the circumstances under which you became acquainted with him?

A. Yes. I, at one time, far back in 1921, had a map made of that section where he lived over there, had signs up and built a good deal of that property on the west side. Mr. Jones of the Sash and Door Company—my sister worked for him—was buying lots down there and I made up this map on purpose and had signs on this lot and Mr. Hearst, the tax collector of Long Beach, sent Mr. Bergmann over

(Testimony of Edwin Kammerer.)

to see me. He said he had property down there too and said——

Q. Then you met him under circumstances of real estate dealings? A. Yes, sir.

Q. Now, have you had much contact with Mr. Bergmann during those 19 years?

A. Yes, considerable.

Q. What has been the nature of those contacts?

A. Both business and social. [389]

Q. What has been the nature of the business dealings?

A. Oh, he was looking up different properties he wanted to know about and the appraisement of them, what the value was, and what my opinion was.

Q. What was the nature of the social relationship?

A. Well, I went out different places with him.

Q. What do you mean by that?

A. Oh, come to Los Angeles and go to different places around.

Q. I am sorry, but I didn't hear that answer.

A. I say any place you would go socially. I wouldn't know the exact dates or anything like that.

Q. Well, do you recall going on Sunday drives with him? A. Yes.

Q. How many occasions would you say you had gone on Sunday drives?

A. Oh, I suppose it was considerable. It was lots of times.

Q. Approximately how many times would you say you have gone on Sunday drives?

(Testimony of Edwin Kammerer.)

A. In the 19 years—that's a long time.

Q. How many times would you say in the 19 years that you have been out on Sundays with him?

A. That would be pretty hard to give the exact amount. It would probably run—oh, that would be hard. It would [390] be just a guess with me. It would probably be fifty times, at least.

Q. Now, during those times did you have conversations with him?

A. Oh, we always talked about different things when we were out together.

Q. During that period of time were any other persons present during these trips?

A. No, we went together.

Q. Did you never have occasion to discuss with him the disposition of his property upon his death?

A. Well, he mentioned that he would leave it to the "Y" and the Salvation Army, different organizations; and I think there was a few private people he was going to leave some to, too.

Q. Have you ever had occasion during those conversations to discuss Germany? A. Germany?

Q. Yes.

A. Not to any great extent. I have heard him talk about it.

Q. Do you recall any talk about Germany?

A. Yes. He said he left Germany on account of getting away from the military.

Mr. Dean: Can we have the time?

Q. By Mr. Jacobson: Can you tell us the ap-

(Testimony of Edwin Kammerer.)

proximate [391] time when that conversation occurred, Mr. Kammerer?

A. I don't know as I could; the exact time.

Q. We can't tell you.

A. He made that statement more than once. I wouldn't know the exact time.

Q. Well, do you remember the year?

A. Well, probably 1936, 1923 when he first came here.

Q. That is, you have had occasion to discuss it with him more than once?

A. Yes, in casual conversation, yes, sir.

Q. Then you would say between the years 1923 and 1936 he had discussed the circumstances surrounding his leaving Germany? A. Yes.

Q. What did he say?

A. Just what I said before.

Q. Well, what was that, Mr. Kammerer?

A. He wanted to leave Germany and get away from military service.

Q. Did he tell you how old he was?

A. No, there was no age stated.

The Court: Did he tell you the year in which he left Germany?

The Witness: No, that wasn't brought up.

The Court: What's that?

The Witness: No, that wasn't brought up. [392]

The Court: All right.

Q. By Mr. Howser: Mr. Kammerer, do you recall—strike that.

A. He might have, but I don't remember.

(Testimony of Edwin Kammerer.)

Q. Have you ever had any conversation with Mr. Bergmann relative to filing his application for citizenship? A. Yes, sir, I have.

Q. Do you remember when that conversation occurred? A. In '36 or '37.

Q. Where did the conversation occur?

A. It was in Long Beach, up town. I met him at my office.

Q. Do you recall who was present?

A. Well, my stenographer was there.

Q. What is her name?

A. It was Virginia Sills.

Q. Is she still with you? A. No.

Q. What conversation occurred at that time?

A. Well, he mentioned that he was going to apply for his citizenship papers, and I told him that I thought it was a good thing for him to do.

The Court: It was a good idea. You were in favor of it?

The Witness: Yes.

The Court: All right.

Q. By Mr. Howser: Did you say anything? [393]

A. No. It was his own business, his own dealings.

Q. Do you recall any conversation with Mr. Bergmann after he obtained his last papers?

A. Yes.

Q. Do you recall the approximate time of that conversation? A. It was around '38.

Q. Pardon?

(Testimony of Edwin Kammerer.)

A. Either the last of '37 or the first part of 1938.

Q. That is to the best of your recollection?

A. Yes.

Q. Now, where did that conversation take place?

A. I met him downtown when I talked about that.

Q. Were there any other people with him or yourself? A. No, there wasn't at that time.

Q. What was said at that time?

A. He said he was proud that he had got his papers and proud to be a citizen of the United States.

Q. Anything further than that that you recall respecting the citizenship papers?

A. Well, he mentioned, naturally, that he would rather live here than any place he knew of; that it was a wonderful country to live in.

Q. Do you recall——

A. Everything was here.

Q. Pardon me. [394]

A. He talked about all the nice things there was in this country, and Long Beach, especially; quite a bit of conversation.

Q. What do you mean by "nice"?

A. Well——

Q. Or, excuse me, your Honor.

Did he say what he meant by "nice"?

A. Just a regular conversation; that it was a better place than any other place he had ever been. Freedom.

(Testimony of Edwin Kammerer.)

Q. Have you ever had occasion to discuss isolation or intervention by this country into the affairs of other countries with Mr. Bergmann? Answer that, please, yes or no, if you can. A. Yes.

Q. Do you recall whether you discussed that on more than one occasion?

A. On several occasions; several times.

Q. Do you recall the first conversation, the year? A. It has been so long ago.

Q. Do you not recall?

A. No, I don't recall.

Q. Do you recall the last conversation you had with him respecting isolationism?

A. I talked to him about it and wondered why——

Q. I can't hear you, Mr. Kammerer.

A. I say I also mentioned why he isolated himself like [395] he did.

The Court: We are not talking about that kind of isolation.

The Witness: Oh, you are talking about the country. I don't know what you are talking about.

The Court: I expect you, as a married man, to be a good union man and not allow scabbing on the job. That isn't what we are talking about. We are talking about isolationism in the sense of political policy.

The Witness: Politics?

The Court: Yes, foreign affairs.

The Witness: Foreign affairs?

The Court: You know what is meant by "isola-

(Testimony of Edwin Kammerer.)

tionism", don't you? You remember Senator Wheeler—we will use him as an example—Lindbergh, Mrs. Lindbergh, Congressman Fish, Congressman Knudsen?

The Witness: Norris and that bunch?

The Court: No, Norris wasn't an isolationist. Senator Lundeen whose speeches were written by Sylvester Viereck and these other people who were advocating isolationism. Let's see; Mr. Wood. I don't call him "General". He wasn't a real general. He was a merchant. Robert E. Wood, who ran Sears Roebuck & Co. He and a lot of others were advocating that we keep away from Europe or, at least, let England defeat them and, "it is not our fight," and "Stay here and let them come to us, and when they come here we will just fight them." [396] You know about all that.

Then the Japanese came here, you see—didn't come right here, but they came to Pearl Harbor. That is what they call isolationism, that kind of stuff, do you see? Have you ever talked to him about that?

The Witness: He talked about that first, yes.

The Court: I see. That is what he is talking about. Now, I will turn you back to your attorney. I just wanted to help you out.

The Witness: I appreciate that, your Honor.

The Court: All right, get back to the question. Go ahead.

Q. By Mr. Howser: Can you tell us what he said when you discussed that subject?

(Testimony of Edwin Kammerer.)

A. He said the way Wheeler and Lindbergh and them people were keeping us out of war, that that was o.k. Those are the lines we talked along, but, of course, after the war was over he changed his mind like every one else did—I mean after the war started.

Q. Did you have occasion to converse with Mr. Bergmann since December 7, 1941, the Pearl Harbor incident?

A. Sure. He has changed altogether.

Q. Just a minute. Do you recall how long after this incident occurred that you had such a conversation?

A. Well, I talked to him since the war, if that is what you mean, since the war started on December the 7th last [397] year. Is that what you mean?

Q. When, if you recall, did you have the first conversation with him?

A. About the first of the year.

Q. Where did the conversation take place?

A. That was uptown.

Q. Where uptown?

A. I met him on the street there and we talked about it.

Q. Were you alone? A. I was alone.

Q. Were there any people with him?

A. Nobody was with him.

Q. What was said by him and what did you say?

A. Well, he just says—just as the rest of us did—we will get rid of these dirty Japs. Now that

(Testimony of Edwin Kammerer.)

they are in the fight, we might as well make the best of it.

Q. You say there was some reference about the Japs? A. Yes.

Q. What did he say about them?

A. Oh, about the Japs jumping on us.

Q. Do you recall anything else about that conversation now other than what you have given us?

A. That has been quite a while ago. I couldn't give the exact words, but it was along those lines.

Q. Have you conversed with him since that time? [398] A. Yes, sir.

Q. On how many occasions?

A. Oh, probably fifteen, maybe fifty times since the 1st of January. Once a week, anyway.

Q. Mr. Kammerer, during the 19 years that you have known Mr. Bergmann, have you ever heard him criticize our form of government?

Mr. Dean: Just a moment. I object to that on the ground it is leading.

The Court: No, I will overrule the objection.

The Witness: No, I haven't.

Mr. Howser: That is all.

Cross Examination

By Mr. Dean:

Q. Mr. Kammerer, you say that you work at Cal-Ship. Is that right? A. Yes, sir.

Q. Did Mr. Bergmann approach you about testifying in this case? A. No, sir.

Q. Who was the first one who approached you?

A. Nobody approached me about this case.

(Testimony of Edwin Kammerer.)

The Court: Who talked to you about it? He didn't use "approach" in a critical sense.

Mr. Dean: No.

Q. By Mr. Dean: In other words, who first talked to [399] you about testifying in this case?

A. I saw it in the papers, and I thought——

Q. Just a moment. Don't tell us what you thought. A. O. K.

Q.. Do you want to answer my question now?

A. Yes; put it up again, please.

Mr. Dean: Read the question, please, Mr. Reporter.

(Question was read.)

The Witness: I don't know as though anybody did. I got a letter from Mr. Jacobson.

Q. By Mr. Dean: You say you received a letter from counsel. Is that right? A. Counsel.

Q. Did you ever talk with Mr. Bergman about testifying in this case? A. Yes, I did.

Q. When was the first time you talked with him?

A. I suppose it was probably August or September.

Mr. Jacobson: Your Honor, we can't hear the witness.

The Witness: August or September.

Q. By Mr. Dean: Isn't it a fact, Mr. Kammerer, that Mr. Bergman told you what he wanted you to testify to in this case? A. No, sir.

Q. He never told you what he wanted you to say in this court? [400] A. No, sir.

(Testimony of Edwin Kammerer.)

Q. Isn't it a fact that he promised you more money than you are making at Cal-Ship to appear as a witness in this case? A. No, sir.

Q. Now, Mr. Kammerer, you have been a business man in Long Beach for a long period of time, haven't you? A. Yes, sir.

Q. You say you have seen Mr. Bergmann countless times since 1921. Is that correct?

A. I think it was '23, wasn't it?

Q. 1923. I am sorry. A. Yes.

Q. Now, during the period from 1923 to 1937, did you ever discuss with Mr. Bergmann the advisability of his getting his citizenship papers?

A. No, I didn't.

Q. You never did? A. No, sir.

Q. Did you ever ask him whether he was a citizen of the United States? A. No, I didn't.

Q. You never asked him in that 14-year period whether or not he was a citizen?

A. No. I thought it was his private affair.

The Court: What did you say? I didn't hear that. [401]

The Witness: I thought it was his private affair. I never ask anybody about their business.

The Court: That is right. That is typical of an American man.

Q. By Mr. Dean: Now, subsequent to 1937, Mr. Kammerer, did you discuss with Mr. Bergmann how good it was from a business standpoint to have citizenship papers; how it would help a man in his business to have his final papers?

(Testimony of Edwin Kammerer.)

A. No, I didn't.

The Court: He said he didn't discuss it before.

Mr. Dean: I thought that was before 1937, your Honor.

The Court: At any time.

Mr. Dean: I think that is all the cross examination.

Mr. Howser: That is all, your Honor. Thank you.

(Witness excused.)

Mr. Jacobson: Is Edwin Kelly in the court room?

(No response.)

Mr. Jacobson: Could I get on the stand and read the Kingman deposition, your Honor? I think the other witnesses will be here at 2:00 o'clock.

The Court: I beg your pardon?

Mr. Jacobson: May I read the Kingman deposition at this time? I believe you said you wanted it read.

The Court: Yes, I want it read.

Mr. Jacobson: May I do that at this time?

The Court: Yes, go ahead. [402]

Mr. Jacobson: Do you want me to read from the copy or the original?

The Court: It doesn't matter, provided you have all the corrections. Are you sure you have them all?

Mr. Jacobson: No.

The Court: He has rewritten entire pages.

(Testimony of Edwin Kammerer.)

Mr. Jacobson: I have only the one that came from the notary.

The Court: No, I was in error. I said he had rewritten whole pages. That isn't true. There are some corrections, though.

Mr. Jacobson: I see a correction on page 2.

The Court: I was mistaken. I had in mind the statement of the defendant, you know, on which he made so many corrections.

There are very few corrections in the deposition.

Mr. Jacobson: You can use my copy, if you wish.

The Court: I don't want to follow it. I will just listen.

Mr. Jacobson: I presume, Mr. Dean, we may stipulate this deposition was taken pursuant to oral stipulation of counsel?

Mr. Dean: So stipulated.

Mr. Jacobson: And with the reservation of objections except, I believe, as to the form of the question?

Mr. Dean: No, that all objections are reserved. [403]

Mr. Jacobson: Except as to time, place and the manner of taking the deposition.

Mr. Dean: That is right.

Mr. Jacobson: (Reading)

"VICTOR C. KINGMAN

a witness produced by and on behalf of the Defendant, being first duly sworn, was examined and testified as follows:

The Notary: Will you please state your name?

A. Victor C. Kingman.

Mr. Howser: May we let the record indicate, Mr. Worthington, that I am appearing here on behalf of Walbfred Jacobson who is attorney for Mr. Bergmann. I am not officially attorney of record yet.

Mr. Worthington: You are of counsel temporarily.

Mr. Howser: That is right. And we have stipulated that this testimony of Mr. Kingman may be taken by way of deposition. That is Mr. Dean, Mr. Jacobson and I have so stipulated.

Mr. Worthington: What is Mr. Jacobsen's name?

Mr. Howser: Walhfred Jacobson. I will associate with him in the case.

Mr. Worthington: Yourself of counsel.

Mr. Howser: That is right, of counsel.

Mr. Worthington: The record should also indicate that all exceptions are reserved for the time of trial [404] except as to form.

Mr. Howser: That is right.

(Deposition of Victor C. Kingman.)

Direct Examination

By Mr. Howser:

Q. Mr. Kingman, where do you reside?

A. Jonathan Club.

Q. Is that here in Los Angeles?

A. Sixth and Figueroa, Los Angeles.

Q. How long have you resided there?

A. Three years.

Q. What is your business or occupation?

A. I am president of the Plomb Tools Contracting Company.

Q. And that organization is engaged in what kind of business?

A. Manufacturing tools for the Plomb Tool Company of which it is a wholely owned subsidiary for the Army Air Force.

Q. Now I understand that you expect to depart from the State of California on the 12th of this month? A. Yes.

Q. And you don't expect to return until what time? A. Sunday, the 29th.

Q. Mr. Kingman, how old are you?

A. Fifty-one.

Q. And where were you born? [405]

A. Helena, Montana.

Q. How long have you resided in California?

A. Since 1892 except for ten years absence in the East.

Q. And where were you in your ten years absence in the East?

(Deposition of Victor C. Kingman.)

A. Colorado, Missouri and Texas.

Q. What was the occasion for being in those states?

A. I went to Colorado College for four years and also worked there in Colorado for three years in addition to school work. Then I was with the Bemis Brothers Bag Company for the other three years in St. Louis and Houston.

Q. Did you have any particular training through college, or anything like that?

A. Engineering. I was superintendent of the Bag Company's plant in Houston, Texas.

Q. Now you say you were born in Helena, Montana? A. Yes.

Q. And what was your father's business or occupation?

A. He was a mining engineer.

Q. I believe you told me a little while ago that one of your relatives was judge in the District Court in Montana?

A. My grandfather was the first Supreme Court Judge, the first judge appointed by President Grand after the [406] Civil War for the Territory of Wyoming.

Q. How long have you known Mr. Bergmann? A. Since 1935, seven years.

Q. Do you recall the circumstances under which you became acquainted with him?

A. I was purchasing some property where oil was later discovered in the City of Long

(Deposition of Victor C. Kingman.)

Beach near where he lives and at that time I found that he owned some property which I bought from him as a result of our meeting.

Q. And what time was that?

A. About 1935.

Q. Did you have any firm association at that time? Were you with any particular company?

A. William Cavalier & Company, New York Stock Exchange.

Q. Now did you have occasion at that time to see Mr. Bergmann frequently?

A. Yes.

Q. And since meeting him in 1935 have you had occasion to see him?

A. Yes, a great many times.

Q. How often would you say you had seen him?

A. Well, it varied. When I was drilling oil wells in Wilmington and Long Beach I saw him weekly for quite some period. [407]

Q. During what period of time were you drilling? A. From 1936 to 1941.

Q. And under the name of what company?

A. The last three wells were the Anchor Company.

Q. What others?

A. Bond Petroleum Corporation which was located not far from where he lives. Three wells Lokern Developing Company.

Q. That is Los Angeles and Kern County?

(Deposition of Victor C. Kingman.)

A. Yes, there is a town up there named Lokern.

Q. Now you say when you were drilling these wells. Were you actually drilling the wells or did you have an organization?

A. I was president.

Q. How often would you say you have seen Mr. Bergmann in the last three or four years?

A. Probably a hundred times.

Q. And have you had occasion to have conversations with him?

A. Yes. We have visited back and forth and had more or less business during that time, since 1935.

Q. Do you have any knowledge of his archaeology trips that he made out of this country? A. Yes.

Q. You know as a matter of fact that he has had such archaeological collections in the Los Angeles [408] County Museum?

A. Yes.

Q. Have you had occasion to discuss with him those collections? A. Yes.

Q. Have you made any investigation outside of what he has told you concerning these collections?

A. I have talked with Dr. Bryan.

Q. And who was Dr. Bryan?

A. Dr. Bryan was head of the Museum at Exposition Park. And Dr. Comstock who was

(Deposition of Victor C. Kingman.)

curator of the Museum and who is a friend of mine.

Q. Do you remember what period of time that was when you talked to these men?

A. 1935, 1936 and 1937.

Q. I understand that Dr. Bryan is now deceased? A. Yes.

Q. Did you have an opportunity to see the collections of Mr. Bergmann? A. Yes.

Q. And what do they consist of, just generally?

A. Various works from the South Seas, South Pacific islands.

Q. To your knowledge when did Mr. Bergmann obtain these collections?

A. I beieve he was over there for about three years. [409] probably 1927, 1928 and 1929.

Q. You are not certain as to the dates?

A. Yes. I identify that as connected with his return to this country having been notified by the bank that defaults were taking place in some of the real estate he had sold, and part of that occurred in the 1929 crash.

Q. Did you ever have occasion to discuss with Mr. Bergmann what his disposition was going to be concerning these archaeological collections?

A. I believe he was going to leave them to the Museum.

(Deposition of Victor C. Kingman.)

Q. That is the Los Angeles County Museum? A. Yes.

Q. Where they were located? A. Yes.

Q. And did your conversations with Mr. Bryan bear that out? A. Yes.

Q. Did you ever have any conversation with him respecting his real property and what he would do with those on his death?

A. Yes.

Q. When was this conversation?

A. Oh, at various times over the past seven years.

Q. And as to his real property what conversation [410] did you have?

A. I understood that he was leaving property to the Salvation Army in Seattle and Long Beach.

Q. Did you ever have any conversation with him—— A. Also the Y.M.C.A.

Q. Did he say what particular Y.M.C.A.?

A. Well as I remember he said that they had befriended him in Seattle and also in Los Angeles.

Q. Now have you had occasion to engage in other business transactions with Mr. Bergmann other than you have given us?

A. Yes. While I was with the New York Stock Exchange firm I had business transactions with him involving his purchase of stocks and bonds.

(Deposition of Victor C. Kingman.)

Q. To what extent has he purchased, or did you engage in such business with him?

A. I think his business there amounted to probably a total well in excess of one hundred thousand dollars.

Q. Now did you have access to all the bonds that he bought, that is know the nature of them?

A. No. He always paid cash and took delivery.

Q. To your knowledge did he ever purchase any bonds of any German government or any German agency? A. No.

Q. The purchases and transactions that he had with you in what kind of concerns were they? [411]

A. Always the biggest and best of American industry.

Q. Now are you acquainted with whether or not he has any family, relatives?

A. Yes. I have never met any of them but on several occasions he has mentioned his father and mother and a brother who I understand is a surgeon of some note with the Mayo clinic.

Q. Have you had occasion to discuss with him social problems? A. Yes.

Q. And over what period of time?

A. Since 1935.

Q. And have you ever heard him make any statement disloyal as an American citizen or to this country? A. No.

(Deposition of Victor C. Kingman.)

Q. Have you ever seen any actions on his part that would indicate to you that he was engaged in any disloyal conduct? A. No.

Q. Has he ever to your knowledge belonged to any German Bund organization, or any similar organization?

A. No, not to my knowledge.

Q. Have you ever observed any German literature or newspapers in his home?

A. No.

Q. Or on his person? [412] A. No.

Q. How many times would you say you have had occasion to be in his private home?

A. Oh, I am sure more than a hundred times in the last seven years.

Q. Will you please describe the manner in which he lives?

A. More than just meagerly. He occupies one unit of the eight-unit bungalow court which he owns, the other seven units of which he does not rent. He appears to cook most of his own meals and lives in a very frugal manner.

Q. To your knowledge is he married?

A. No.

Q. Have you ever had occasion to discuss with him reasons for not being married?

A. Yes.

Q. Do you recall when that was?

A. At various times.

Q. Through the period of time in which you have known him? A. Yes.

(Deposition of Victor C. Kingman.)

Q. Do you recall just what was said by him?

A. Oh, I would say that it was his feeling that he was naturally very bashful. Probably living as modestly as he does he didn't care to undertake the expense of [413] keeping up a home and family.

Q. During the period of time that you have known him have you observed his concern over money? A. Yes.

Q. Can you describe that for us?

A. He seems to have a great desire to accumulate money, and worked very hard physically and mentally. I have noted dozens of his transactions.

Q. Well would you say that he is mentioned as a good spender, or thrifty, or miserly?

A He is very miserly?

Q. Now in this home of his did he have a rug on the floor?

A. No rugs, no radio, no automobile.

Q. Any furniture?

A. None to speak of.

Q. Have you observed the type of food that he eats, things of that nature?

A. Yes. He buys very frugally, cooks it himself and eats alone.

Q. Have you ever had occasion to discuss with him the late Senator Borah of Idaho, and Wheeler and Clark of Montana, or Lindberg, or Dewey? A. Yes, I would say so.

(Deposition of Victor C. Kingman.)

Q. Approximately how many times?

A. Several. [414]

Q. What was his statements concerning those men?

A. He admired their isolationist policy.

Q. Have you ever had occasion to discuss the European aristocracy that has existed during the centuries? A. Yes.

Q. What have been his statements concerning that?

A. Well he had a rabid hatred of it.

Q. Have you ever discussed militarism with him? A. Yes.

Q. What have been his statements concerning that?

A. He was very bitter against military power.

Q. Have you ever had occasion to discuss with him the reason for his coming to this country? A. Yes.

Q. When was that, the first time?

A. Probably about the first time I met him.

Q. Back in 1935? A. Yes.

Q. And where did the conversation take place, if you recall?

A. I don't recall.

Q. Do you remember who was present?

A. Probably no one.

Q. And what statements did he make at that time?

A. Well now, just regarding what?

(Deposition of Victor C. Kingman.)

Q. About the reasons for his coming to this [415] country and leaving Germany?

A. He came from a large family over there although I understand his father was well to do and prosperous. He struck out for himself when rather young with, as I remember, something like a hundred dollars and worked his way to Alaska to hunt for gold.

Q. You say Alaska, or Canada, or do you recall?

A. It may have been either one. He entered, I think, from Alaska and accompanied by an Indian spent a year or so up there rather isolated hunting gold.

Q. Do you recall what time he came into this country? A. No.

Q. The approximate year? A. No.

Q. Now prior to the war, I mean the World War No. 2, and prior to December 7th of last year, have you had occasion to discuss with him Adolph Hitler? A. Yes.

Q. And were these conversations all prior to Hitler's invading Poland? A. Yes.

Q. And what conversations did you have with him at that time respecting Hitler's capacity in Germany?

A. Well before the occupation of Poland he seemed to express admiration for Hitler's method by which he [416] had brought Germany out of its turmoil. He was definitely par-

(Deposition of Victor C. Kingman.)

tial to Hitler for the things that he had done in restoring order.

Q. And was there any mention about the Youth Movement in Germany?

A. Yes. Bergmann, himself, was quite a physical culture enthusiast.

Q. He still is as a matter of fact?

A. He still is. He was always preaching the advantage of clean living and exercise, the Youth Movement in Germany, and so on.

Q. And similarly expressed himself concerning liquor and the use of tobacco?

A. Yes, he totally abstained and has a great distaste for any one using it.

Q. Did you have occasion to discuss with him Hitler after the war started? A. No.

Q. You have had no conversation with him respecting Hitler's organization and his military machine?

A. No. Not particularly. I can't recall anything definite about it.

Q. Do you recall ever having any conversation with him about returning to Germany after the war, anything like that?

A. Yes. He wanted to visit his mother again. [417]

Q. Do you know how many years it has been since he had seen her?

A. Twenty-five or thirty years, I think from what he has told me.

(Deposition of Victor C. Kingman.)

Q. In all of your business transactions with him, Mr. Kingman, would you say Mr. Bergmann is the type of person that influences other people or is he one of the self-reliant individuals?''

Mr. Dean: Just a moment. I am going to object to that as calling for a conclusion.

The Court: I don't see the issue to which that is directed.

Mr. Jacobson: Well, the only possible explanation of why he lived alone so much.

The Court: I think that is the trouble with a lot of this testimony. It is directed to an immaterial issue. I even admitted he was thrifty. I admitted that he intended to leave his property to worthy causes, but that doesn't necessarily meet any issue in this case. The government isn't telling him he ought to get married or that he ought to rent his houses or that he ought to go around with more clothes than just his trunks, because anybody has the right to do that on his own property. I do it myself. I happen to live on a hill, not in Long Beach, but on a hillside in the Los Feliz district. I do that myself. That is how I keep healthy. I think a good deal of this relates to a [418] matter in which the government is not challenging at all. All of these men are brokers. Of course they were impressed with him. I happen to know this particular man. He lives at the Jonathan Club to which I belong. They, of course, are all impressed.

(Deposition of Victor C. Kingman.)

Success is a thing American men like. Even women use that as an excuse to marry a rich man. They like their quality; even apologize for it.

Mr. Howser: Your Honor, may I express myself on the reason for many of these questions?

The Court: Yes, surely.

Mr. Howser: It was for the purpose of the Court to consider the actions, declarations and conduct of the defendant as they might relate to the statements to be made by him. In other words, I can understand that people in certain walks of life might be influenced by my way of living or that the statements I would make would be influenced by my mode of living. And whether or not I would be a person, you might say with personality plus or an introvert, in my opinion would be of great assistance to the court in arriving at whether or not that particular individual was loyal or disloyal to the country.

The Court: I don't know. I happen to glance through this deposition and I noticed you are even going to ask Mr. Kingman whether he was an introvert or an extrovert, and I don't think introversion or extroversion has anything to do with loyalty to one's country one way or the other. [419]

This question whether he was self-reliant or not, is not material. As I said yesterday, it seems to me most of these witnesses who testified told us he is a hard-working, thrifty, even a miserly man. Now, how does that help us determine whether he made these statements which have been testified by

(Deposition of Victor C. Kingman.)

dozens of persons. Of course, the fact that he to others didn't express them is material, or to others he expressed loyal sentiments to the country is all right; but we are taking a lot of time. Like this man from the bank. After his testimony is summed up it amounts to nothing, except that he was a good account. He was sorry to lose him, and for four years every time he saw him in his bank he talked to him. Now, what does that have to do with the facts here?

Mr. Howser: I don't want to argue Mr. Grant's testimony, but we did believe his testimony to the effect that he had never heard a word of criticism is of value to the Court.

The Court: That is negative, it is true, and you have a right to consider it in a case of this character. No objection was made to that. But to talk about whether he is the type of man who influences others, or anything else, is immaterial. This is not a case where the man is charged with organizing groups or anything else. If the government had charged that he had organized groups to whom he was preaching certain ideas, I can see where that might be material; but there is no such charge in the complaint and no proof [420] directed to that charge.

Mr. Howser: I know the court will appreciate we were anticipating to expect anything when we came into this court room.

The Court: I realize that. I realize in a deposition you have to go far afield because you never

(Deposition of Victor C. Kingman.)

can tell what might be brought out and you want to be prepared.

Now, read that last question. Did you interpose an objection to that?

Mr. Dean: I did, your Honor.

The Court: What is the question there?

Mr. Jacobson: "Q. In all of your business transactions with him, Mr. Kingman, would you say Mr. Bergmann is the type of person that influences other people or is he one of the self-reliant individuals?"

The Court: Well, I will sustain the objection. I think it is on purely an immaterial issue.

Mr. Jacobson: (Reading).

"Mr. Worthing: Introvert?"

Mr. Howser: That is out.

The Court: Yes. Where was this taken?

Mr. Jacobson: In the United States Attorney's office.

The Court: I mean this deposition?

Mr. Jacobson: In Mr. Worthington's office, your Honor.

Mr. Dean: We provided quarters for the taking of this deposition, your Honor. [421]

The Court: I was wondering why—well, I will let *is* in there so long as somebody asked it.

Mr. Jacobson: Should I read the answer, then?

The Court: Yes, read the answer.

Mr. Jacobson: "A. He is unusually self-reliant and retiring; he doesn't mix at all or get along with people."

(Deposition of Victor C. Kingman.)

The Court: I see; all right. That really answered the question that we struck out, but we will let it stand.

Well, it is after 12:00 o'clock, gentlemen. I have a lot of work to do and we will continue the reading of the deposition until 2:00 o'clock.

We will not be delayed by the absence of any witnesses, will we, Mr. Jacobson?

Mr. Jacobson: No, your Honor. If they are not here we will put the defendant on.

The Court: I see. All right.

(Whereupon, at 12:10 o'clock P.M. a recess was taken until 2:00 o'clock P.M. on the same day.) [422]

Los Angeles, California,
November 19, 1942.
2:00 P.M.

Mr. Jacobson: Well, shall I continue with the deposition, your Honor?

The Court: Yes, let's finish it and not break the continuity.

Mr. Jacobson: Page 14, Line 22, I believe is next.

"Q. By Mr. Howser: Would you say that he is of average mentality, or is he very well educated?

A. I would say that he is not extremely well educated except that he reads a great deal and

(Deposition of Victor C. Kingman.)

seems to be up on world affairs and what is going on.

Q. Have you found in his selection of stock on the market that he is fairly well acquainted?

A. Yes. His record with us showed that he was not only astute and way above the average as our investors would go, but had an uncanny way about him. He was very studious about his securities before and after he bought them. Usually bought only of the very biggest and best investments.

Q. Have you had occasion to have any personal knowledge of any of the difficulties he has had with his neighbors down there in the Harbor?"

Mr. Dean: I am going to object to that as calling for a conclusion and hearsay.

The Court: It is a preliminary question. Overruled. [423]

Mr. Jacobson: (Reading).

"A. No, only what he has said himself about being criticised for living like a hermit. Well, I have heard other people accuse him of being a recluse, eccentric. He is quite a character around there.

Q. Have you had any occasion to discuss with him the matter of his becoming a citizen of this country?

A. Yes. He told me he had become a citizen sometime ago.

(Deposition of Victor C. Kingman.)

Q. Do you recall when that conversation took place? A. No.

Q. Has it been previous to this difficulty he is now in with the Government?

A. Oh, yes.

Q. Did you ever have any occasion to discuss with him his feelings, I might say, concerning becoming a citizen of this country?

A. Yes.

Q. How long ago was that?

A. At various times in the last seven years."

Mr. Dean: Just a moment. I am going to object to the answer because it is, apparently, a conclusion of the witness. It is not responsive to the question, either, and I am going to object on that ground, also.

It is only the second sentence I object to, your Honor. I withdraw the objection to the balance.

[424]

The Court: Well, of course, I don't know. The difficulty is the man expresses himself in that manner. He might mean he drew that inference from his conversation or through impressions. I think, however, in view of the question—the question is, "Did you ever have any occasion to discuss with him his feelings, I might say, concerning becoming a citizen of this country?

"A. Yes.

"Q. How long ago was that?

"A. At various times in the last seven years."

(Deposition of Victor C. Kingman.)

Well, of course, the difficulty on a deposition is that ordinarily you should have stopped there and propounded another question but for some reason or other it wasn't done.

Isn't this man available?

Mr. Jacobson: He had to go away on business, your Honor.

The Court: Oh, he had to go away on business?

Mr. Jacobson: Yes.

The Court: What follows is entirely germane to the inquiry.

Mr Dean: I object for this reason, your Honor. "He seemed to feel loyal."

The Court: "He seemed to feel loyal" he asked him, "Did you discuss his feelings," and then he said, "Yes, he seemed to be loyal." That his feelings were that way.

Mr. Dean: I withdraw the objection, your Honor. [425]

The Court: It is a border-line sentence. Go ahead and read the rest of it.

Mr. Jacobson: (Reading)

> "A. At various times in the last seven years. He seemed to feel loyal toward the United States; he had made his money here entirely and said that he was preparing to leave it all here. I think up to the time of the war he sent his mother a small amount of money monthly, but as I understood it other brothers had prospered also and he was therefore arranging to leave it to the Y.M.C.A. and the Salvation Army.

(Deposition of Victor C. Kingman.)

Q. He has a brother in Spokane, Washington? A. I don't know.

Q. Now you understand, Mr. Kingman, that the information and testimony you have given us is to be used in court? A. Yes.

Q. And is under oath to be the truth in this case? A. That is right.

Q. To be used in his behalf?

A. That is right.

Q. Have you told us all you know and can remember at this time concerning Mr. Bergmann and your relationship with him?"

Mr. Dean: Excuse me. Your Honor, I am going to make an objection to the answer to the next question on much the same [426] ground. I believe it is not in response to the question and also that it calls for a conclusion.

The Court: Well, I think that that is more of a defense of himself than contributing any facts. I will sustain the objection to that question.

Mr. Jacobson: (Reading)

"Mr. Howser: That is all for my part on this deposition.

Cross Examination

By Mr. Worthington:

Q. How many times, Mr. Kingman, in the past seven years, do you think you have had discussion on geopolitics with the defendant Bergmann?

A. Well I lived in Long Beach most of the

(Deposition of Victor C. Kingman.)

time for three or four years working there, and had occasion to see him on business and in the course of seeing him discussed things on dozens of occasions.

Q. And in the discussions as you stated concerning Hitler and his movements that the defendant alleged Hitler had made in Germany, did the defendant in your opinion show that he was in any way proud of his German descent?

A. Well, he never expressed himself on that that I can remember. He was proud of his family and their progress.

Q. From your association with him and what you know [427] of him and believe in general, would you say that he displayed an attitude that showed pride in Germany ancestry?

A. Yes.

Q. Now did you ever have occasion to go into any of the seven vacant units of this bungalow court where Bergmann lived in Long Beach?

A. No.

Q. Are you married, Mr. Kingman?

A. No.

Q. How many times would you say that you visited Bergmann's apartment during the period from 1935 to date?

A. Several dozen times.

Q. My understanding is correct, isn't it, that you haven't seen him since the war broke out only once or twice?

A. Just once.

(Deposition of Victor C. Kingman.)

Q. That would be subsequent to December 7, 1941?

A. Since then I have seen him, I think, just once.

Q. On any of these occasions were any other people present in the apartment?

A. No. I don't think at his place that I ever found any one there except people working on the roof or at his place. I don't think there ever was anyone present at our discussion either there or at the office of Wm. Cavalier & Company. [428]

Q. You have never seen Bergmann take a drink of any alcoholic beverage at all?

A. Yes, he occasionaly has a light wine there.

Q. Have you ever heard him discuss or declaim concerning women and their place in life, or his life?

A. Well he seemed to have no desire to have anything to do with women.

Q. You have heard him discuss it?

A. Yes.

Q. Have you ever seen any in his apartment? A. No.

Q. Does he have a telephone there?

A. No.

Q. Radio? A. No.

Q. You don't know what if any furnishings the other seven units had in this bungalow court, do you of your own knowledge?

(Deposition of Victor C. Kingman.)

A. No, not of my own knowledge. As I remember he said that the man that turned them over to him left them furnished. I can not be sure of that.

Q. What age man would you say Mr. Bergmann is? A. Forty-five or fifty.

Q. Did he ever state to you why he wanted to accumulate so much money?

A. No, except that I could see his craving and [429] mania for it, but he never expressed a reason.

Q. But he did give you to understand that he had no desire to take on any responsibilities in this country such as a family would entail?

A. Yes. I believe I can recollect that he said that he wished that he could find someone and have a family, but it was my opinion at the time that he was too much of a miser to spend the money, and the motive to accumulate money and live on next to nothing overruled his motive to have a family.

Q. When was the last time that you had business dealings with him in connection with land or oil?

A. An actual transaction in business you mean? 1940.

Q. Were you ever associated with him as a partner of anything of that kind, or joint venture?

A. No. I merely bought some real estate he owned and it was involved in lease with the Gen-

(Deposition of Victor C. Kingman.)

eral Petroleum Corporation who later drilled —community lease involving some one hundred and twenty acres which included this property, and some forty wells were drilled on the property. In the course of all of that, he living on the property and being in touch with everything going on. I would often times see him about the development of the oil there.

Q. Would you say from your knowledge and experience [430] with him that he could be termed a rather close mouth individual, or was he a man of excessive talk and braggadocio?

A. Well I would say that he was close mouthed and did not talk to people very much.

Q. Do you feel that you were in an exceptional class in that respect?

A. Yes. I was curious about his adventures in Alaska and the south seas and we used to talk at great length about his experiences. At one time he told me he was asked by the British Museum to conduct an exploration into Africa in search of such trophies as he had brought from the south seas.

Q. Would he discuss any geo-politics along the same line or to any such extent?

A. No.

Q. Prior to the attack on Pearl Harbor were you what might be considered an isolationist?

A. Not particularly, although I probably followed a conservative train of thought at that time.

(Deposition of Victor C. Kingman.)

Q. Would you consider the defendant Bergmann to have been capable of concealing if he so desired the fact that his loyalty was not to this country?

A. No, I don't think he is clever enough to conceal his feelings to anyone as well acquainted as we were.

Q. He never told you, did he, that he was opposed [431] to any policies of the Third Reich.

A. At the time that we were best acquainted Hitler was not in the military position that he assumed after he took Poland, so there was no basis for any particular discussions that way.

Q. Did he ever tell you that he was opposed to any of the policies of the Third Reich?

A. Well his discussions along that line were never extensive and as I recall he was—well to sum it all up against any armament or any war.

Q. You say he was against those?

A. Yes, he was rather rabid about it.

Q. Well we still haven't got an answer to my question. Did you ever hear him say that he was opposed to any of the policies of the Third Reich? A. Yes.

Q. Will you state, if you can, the occasion upon which he said that and what one or more policies that he was opposed to?

A. I can't remember the occasion. It was probably on more than one occasion in which he expressed a fear that a war might come and that he was dead against military powers.

(Deposition of Victor C. Kingman.)

Q. Did he ever made any statements subsequent to the time that the German armies took over Austria that he was opposed to war and feared that Germany would get [432] into war?

A. Yes.

Q. Did you ever have a discussion with him concerning the occupation of Austria by the German Army?

A. Not that I remember, no.

Q. Can you recall an occasion in which he expressed his fear of Germany getting into war after the occupation of Austria by the German army? A. No.

Q. Have you at any time heard him express disapprobation of Hitler since the occupation of Austria by the German army? A. No.

Q. Have you heard him at any time since the occupation of Austria by the Germany army express disapproval of any of the members of the Third Reich?

A. I have seen him so little since that time that I don't recall anything specific about any of the opinions that he expressed since that time.

Q. Now as a matter of fact, Mr. Kindman, all of your association with the defendant Bergmann has been that which was the result of business dealings?

A. No, I would say more than that. I took somewhat of an interest. There was a sort of

(Deposition of Victor C. Kingman.)

friendship between us, more than just an ordinary business acquaintance.

Q. Did you ever go out with him socially? [433]

A. No.

Q. Do you know who his friends were?

A. No.

Q. Did you ever visit with him or any of his friends?

A. No. We would have lunch downtown or dinner together occasionally somewhere, but that was about all.

Q. Now it is correct, is it not, that the testimony you have given here concerning various facts concerning the defendant Bergmann's family, and entry into this country, and leaving this country, are matters that have been told to you by the defendant Bergmann? You have no independent knowledge of them yourself?

A. No. I have no independent knowledge.

Q. Now that also includes the so-called disposition of the defendant Bergmann's property in case he should die? You have never seen his will, have you? A. No.

Mr. Worthington: Well that is all I have.

Redirect Examination

By Mr. Howser:

Q. Mr. Kingman, you told Mr. Worthington that you had no independent knowledge of the facts and circumstances concerning Mr. Berg-

(Deposition of Victor C. Kingman.)

mann. But you have had an opportunity to observe him yourself? A. Yes, I have.

Q. And has his conduct and actions been consistent [434] with what he has told you concerning his past history?

Mr. Dean: I am going to object to the balance of the answer as being a conclusion of the witness, your Honor, in addition as being rather vague.

Mr. Jacobson: Page 24, Line 19, your Honor.

The Court: Oh, I think the question is improper. It calls for a conclusion. I will sustain the objection to both the question and the answer on Page 24, Lines 17 to 23, inclusive.

You may ask the other question.

Mr. Jacobson: Reading from Line 24:

"Q. There was some question asked about him being braggadocio type, or some such description. Have you had occasion to have him address you in some German expression, or something like that? A. No.

Q. Like "Vegehts" or whatever it is?

A. No.

Q. Do you ever recall Mr. Bergmann discussing the subject of Hitler throwing the youth of Germany into war?

A. Yes. I would say, if you care to have me elaborate on that?

Q. Yes, go ahead.

A. I would say that in 1935 and 1936 he was quite an admirer of Hitler——" [435]

(Deposition of Victor C. Kingman.)

Mr. Dean: Excuse me just a moment. I am going to object, your Honor, to the answer—it is a lengthy answer—on the ground it is not responsive to the question and that it is also the opinion of the witness rather than a recitation of conversation.

The Court: Well, again, it is quite evident Mr. Kingman at the time this was taken was familiar with the lawsuit and also knew the answer that had been put in because some of this sounds just exactly like the answer, like some of the allegations in the answer. However, I can't say from the answer whether he is giving his conclusions from facts or not.

Mr. Dean: Well, may I qualify my objection just a bit, your Honor.

The Court: He says, "Do you ever recall Mr. Bergmann discussing the subject of Hitler throwing the youth of Germany into war?" And then if you skip the previous answer, "Yes, I would say, if you care to have me elaborate on that?" Then go ahead with, "I would say in 1935 and 1936 he was quite an admirer of Hitler and the youth movement and the progress economically that attended him in Germany." Now, the question was "discussions" and he evidently gives the summary of the discussion. I think it is colored with the knowledge he had of the defense, because that is exactly the defense made in the answer; although nobody as yet has testified to that except maybe one person, as drawing the line between Hitler's youth and admiration of what Hitler [436] did afterward.

(Deposition of Victor C. Kingman.)

Mr. Dean: With respect to the last sentence, doesn't that fall into another category?

The Court: Yes, of course, that will have to go out because that is merely a speech.

Mr. Dean: I will withdraw my objection to everything except the last sentence.

The Court: All right.

Mr. Howser: May I find out what is being deleted?

The Court: Oh, it begins "I honestly have——"

Mr. Howser: Thank you, your Honor.

The Court: All right.

Mr. Jacobson: I don't follow on that. You mean, "I would say that——"

The Court: Yes.

Mr. Jacobson: That entire answer?

The Court: No, right here; this one.

Mr. Jacobson: Then I may read the rest of the answer?

The Court: That is right.

Mr. Jacobson: (Reading)

> "A. I would say that in 1935 and 1936 he was quite an admirer of Hitler and the youth movement and the progress economically that attended him in Germany. He made no secret about that, and as time went on and the military progress of Hitler became well known it seemed to alarm him that the world might get into another war [437] and that all this physical culture and training and youth movement would lead to a lot of disaster.

(Deposition of Victor C. Kingman.)

Q. Have you had occasion to observe the pride of people as to their ancestory, whether they are Irish, or Scotch, or whatever they may be. A. Yes.

Q. Would you say that he had a greater pride in his German ancestry than an Irishman might have, or a Scotchman, or an Italian?

Mr. Dean: I object to that as immaterial and calls for a conclusion.

The Court: You can put it in. I will say this, gentlemen; I don't think a man saying, "I am proud of being a German" is anything at all. It is just like the story of the Irishman. If he weren't Irish, what would he be, and he said he would be ashamed of himself. So I don't think that means anything at all. Go ahead and read it. We all boast of something we treasure. Go ahead.

Mr. Jacobson: (Reading)

A. No. I would say that it was not above the average for a person who has come from a certain country and whose folks still live there. It wasn't at all boasting about his folks being German as Germans so much as that they were successful people and he was proud to have successful brothers and sisters.

Mr. Howser: That is all. [438]

Recross Examination

By Mr. Worthington:

Q. Did he ever express a desire to bring

(Deposition of Victor C. Kingman.)

his mother over to this country, have her live here?

A. I don't remember that he did. I think his father is still living, I may be wrong, but it was his mother he used to mention most. I don't remember that he did. I think he had brothers and sisters still in Germany and Europe, although he did have those who had been in other parts of the world and who had settled in America. It was my feeling that he thought his mother was well cared for by his other brothers and sisters. I can't remember specifically that he had planned on having his mother come over. He had planned on going back.

Mr. Worthington: That is all.

(Signed) VICTOR C. KINGMAN."

Then the last page is the certificate of the notary. Do you want me to read the whole thing?

The Court: No.

Mr. Dean: I will stipulate it is in order.

The Court: The signature was waived?

Mr. Jacobson: No, your Honor, it was signed.

The Court: He signed it and corrected it?

Mr. Jacobson: Yes. [439]

The Court: All right. You may just state for the record that there is a jurat attached by Blanche Crimp.

Mr. Dean: I am willing to stipulate it is in order, your Honor.

The Court: All right. The entire deposition will be received in evidence and marked as Defendant's Exhibit A.

(The document referred to was marked Defendant's Exhibit A, and received in evidence.)

Mr. Jacobson: Call Mr. King.

WILLIAM E. KING

called as a witness by and on behalf of the Defendant, being first duly sworn, was examined and testified as follows:

The Clerk: Please state your name.

The Witness: William E. King.

Direct Examination

By Mr. Jacobson:

Q. Where do you live, Mr. King?

A. 326 East 7th Street, Long Beach.

Q. How long have you lived in Long Beach?

A. 38 years.

Q. How long have you known the defendant Walter Bergmann?

A. As near as I can remember, eight to ten years.

Q. Do you remember the occasion of your becoming acquainted with him? A. Yes. [440]

Q. How did it come about?

A. Well, going through the harbor there by his place I became acquainted with him—on West Seaside Boulevard.

(Testmiony of William E. King)

Q. You mean you just walked by his place?

A. Yes. The whole front is between Mariposa and Santa Clara Avenue.

Q. That is his property? A. Yes.

Q. Have you continued your acquaintanceship down to date?

A. Well, about six years ago I purchased a seven unit court within fifty feet of the north line of his property and, of course, in between that time I would see him passing by there occasionally. He would generally be out working. He had some vacant lots—vacant property there and I would stop and talk to him.

Q. Your conversations, I suppose, mostly have been as neighbors or business acquaintances or what?

A. Some of them have been neighborly. I was interested very much in real estate and he was interested very much in real estate to buy for the future in Long Beach and we used to talk on that, you know, as to values, and one thing or another; and we used to talk about the neighborhood. [441]

Q. Did you ever have any conversation on political matters?

A. Well, about once. That is about all.

Q. About when was that?

A. About two years ago.

Q. Who was present and where did it take place?

A. Just Mr. Bergmann and myself on his prop-

(Testmiony of William E. King)

erty there, in the rear of his property, one afternoon.

Q. One afternoon?

A. I saw him out there working and I came in to talk to him. I don't know how it came about, but at that time there was quite a little controversy over isolationism.

Q. What did Mr. Bergmann say?

A. Well, he said that he was in favor of that. Of course, I can't give the exact words of that, but the substance was that he thought we should keep out of foreign entanglements.

Q. Did he say anything else?

A. Well, no, that is about all I remember on that subject.

Q. Was there any other political matter or international subject discussed in that conversation?

A. No, not that I remember.

Q. Then, as I understand it, the rest of the conversation was on what? Business matters?

A. Business matters and about the neighborhood there, [442] you know. Of course, he knew that I owned the property there and he was improving his property and I was interested in that, naturally.

Mr. Jacobson: I think that is all.

Mr. Dean: No cross examination.

The Court: All right, step down.

(Witness excused.)

The Court: Call your next witness.

Mr. Jacobson: Mr. Kellegher.

WILLIAM J. KELLEGHER

called as a witness by and on behalf of the Defendant, being first duly sworn, was examined and testified as follows:

The Clerk: Please state your name.

The Witness: William J. Kellegher, K-e-l-l-e-g-h-e-r.

Direct Examination

By Mr. Jacobson:

Q. Mr. Kellegher, you, of course, live in Long Beach? A. Yes, sir.

Q. And have for a long time?

A. Yes, sir.

Q. About how long?

A. Well, off and on for a great many years, but I have been a resident there now much of the time since 1924.

Q. You own an apartment called the Ralston Apartments? A. Yes, sir.

Q. That is located near Mr. Bergmann's west side [443] property? I mean West Seaside property? A. No, I would not say "near".

Q. How close to it?

A. Well, it must be a matter of fifteen, sixteen blocks.

Q. Did you have occasion to walk around in the vicinity of Mr. Bergmann's property?

A. Many times.

Q. When would you say you first met Mr. Bergmann?

A. I would say about 1923, '24.

(Testimony of William J. Kellegher.)

Q. What was the occasion of your meeting him?

A. Well, at that time I was at Long Beach planning to build my apartments. There was a boardwalk and I used to walk down the boardwalk just for pleasure and exercise and I always found this young man in the yard working. It just happened that as I came by I spoke for him for a few minutes and then went on. I spoke to him like that many, many times and we gradually became better acquainted.

Q. Is your acquaintanceship continuous to this day? A. Yes, sir.

Q. In the past few years you have travelled rather extensively, haven't you, Mr. Kellegher?

A. Yes.

Q. So in the past few years, you haven't seen him as much, I presume, as you did prior to that?

A. No, not so much. [444]

Q. Now, I want to ask you if you have had one or more conversations in the past with Mr. Bergmann in which the general subject of his citizenship or political affairs came up?

A. I never talked of political situations or conditions whatever, but one other things, yes.

Q. Will you mention some of the things you have discussed with him?

A. Well, we discussed about his stocks and about real estate and about his travels. I remember distinctly of his telling me—I would say this was some four or five years ago—that he was taking out or had made application for his citizenship papers

(Testimony of William J. Kellegher.)

and that he would be very happy to be a citizen of the United States.

Q. Well, that is the conversation I had in mind.

Going back a little bit, can you tell about when or where that happened?

A. Oh, it was just on one of those trips as I was going by, or I called to see him.

Q. What did he say?

A. He said that he had made application for his first papers and that he would be very happy to become a citizen of the United States.

Q. Did he give any reason why he would be happy?

A. Yes. He had so much property—he told me about how many lots he owned there in that vicinity at one time [445] and said he was going to buy more property. I believe he told me that he had some property in Wilmington leased to one of the railroad companies or to the Union Oil Company, some one of those corporatins, and that he was going to buy property, other property in the city which he has told me he has bought since.

Q. Did he ever express to you his feelings towards Long Beach? A. Yes.

Q. Was that in this conversation or in another conversation? A. What is that?

Q. Was it in that particular conversation about the citizenship papers?

A. No. Many times when I came by there and he held conversations, we would speak of the community. It didn't look so good to me as it did to

(Testimony of William J. Kellegher.)

Mr. Bergmann and I used to joke about it, but he would always say it was going to be a wonderful section of the city and he was very happy to have his property there. He thought it was going to be most wonderful. I did not think so.

Q. You have been an officer of the Apartment House Association in Long Beach for many years, have you not? A. Yes, sir.

Q. What years were you president?

A. I was president for five years. I would say from [446] probably '27 or '28.

Q. Were you president of the California State Apartment Association? A. Yes.

Q. When was that?

A. Well, between '28 and '32. I was president for two years.

Q. Of the State Association? A. Yes.

Mr. Jacobson: That is all. You may cross examine.

Cross Examination

By Mr. Dean:

Q. Mr. Kellegher, you stated that you talked to Mr. Bergmann about the time he was getting his first papers. Is that correct?

A. About that time or—whether he had made application at that time or not, I don't know, but he must have, of course, to have been able to talk about it.

Q. Did he use he term "first papers", do you recall?

(Testimony of William J. Kellegher.)

A. That he was making application to become a citizen of the United States.

Q. That must have been back in 1934, wasn't it, Mr. Kellegher?

A. I couldn't say the year, sir, but it was after he had made application. I never kept track of the years.

Q. I understand you didn't, but it could have been [447] 1934? A. It could.

Mr. Howser: I object to that as argumentative, your Honor.

The Court: He doesn't know.

Mr. Dean: Very well. That is all.

The Court: We will take judicial notice the first papers must be two years old before they can be followed by a certificate of naturalization.

Mr. Dean: Yes. That is all.

The Court: All right. However, they can be as old as seven years, too.

Mr. Dean: Yes.

The Court: All right, sir, you may step down.

(Witness excused.)

The Court: Call your next witness.

Mr. Jacobson: Is Mr. Corvette in the court room?

(No response.)

Mr. Jacobson: Could your Honor give me a couple of minutes to find him? Is it too early for the afternoon recess?

The Court: I don't usually take it until 3:30.

Mr. Jacobson: Well, I think he works for Cal-

Ship and it, apparently, is hard to find him. I thought he would be here by now. I would rather put him on next and then close with the defendant.

The Court: I see. Oh, he wouldn't be lost, would he? [448] Where would you find him in two minutes?

Mr. Jacobson: I thought he might be wondering around in some of the other court rooms.

The Court: Well, if you want a short recess, we will take a short recess.

Mr. Jacobson: Thank you, your Honor.

(A short recess was taken.)

The Court: All right.

Mr. Jacobson: Mr. Bergmann, take the stand.

FRIEDRICH WALTER BERGMANN

called as a witness in his own behalf, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Jacobson:

Q. Where do you live, Mr. Bergmann?

A. I live at 421 East 6th Street, Long Beach.

Q. How long have you lived there?

A. I have lived there since the last two weeks.

Q. Before that, where did you live?

A. At 1255 West Seaside.

Q. Where were you born?

A. In Germany, in the State of Saxony at Walda on the 6th of March, 1893.

(Testimony of Friedrich Walter Bergmann.)

Q. What was your father's name?

A. My father's name was Theodore Edmund Nicolaus Bergmann. [449]

Q. What was your mother's name?

A. Flora Adele.

Q. Do you recall ever having seen your father?

A. I never have seen my father.

Q. So, when you were brought up in Germany, you were brought up by your mother?

A. Exactly.

Q. Do you know if your father is alive today?

A. So far as I can ascertain from the last letter from my mother, he is alive. That letter which I received from mother was around June or July of last year.

Q. She said he was alive?

A. Yes, to the best of her knowledge he was alive and resided at Meuhaldensleben where he was established in the steel and iron business.

Q. Of course, you haven't heard from your mother since that last letter?

A. I have not heard from my mother since the last remittance I made last July—pardon, correction, July, 1941.

Q. No, letters since your last remittance?

A. No, no letters whatsoever.

Q. How many children are there or were there in the family?

A. Altogether including myself four brothers.

Q. Name them, please.

(Testimony of Friedrich Walter Bergmann.)

A. That would be my oldest brother Kurt Bergmann, [450] Charles Bergmann and Edmund Bergmann.

Q. Where is Kurt now?

A. Kurt Bergmann was killed in the war—in the first war I better say—in 1915 or '16 in France.

Q. Was he with the German Army?

A. He was an officer in the German Army.

Q. Do you have any idea what rank he had, using the American ranks?

A. I would say either a major or a captain.

Q. He was killed where?

A. In St. Souples.

Q. How did you learn that?

A. One of the letters which I received from mother after I hadn't written my mother from 1920 up to 1930 stating that—it was in about the summer of 1930, I would say, when I got the first letter—that my brother was killed in the war.

Q. At St. Souples?

A. I beg your pardon?

Q. At St. Souples?

A. Yes. I also heard from my mother prior to this. That is, that would be—let me see.

Q. At any rate, you learned of your brother's death. Is that correct?

A. I would like to recollect the year.

Q. All right. I don't think it is important, Mr. [451] Bergmann.

A. Just a minute. I think I could recollect it,

(Testimony of Friedrich Walter Bergmann.)

sir, if it is important. I would like it in the books.

I do not recollect right now.

Q. But at any rate you learned from your mother—— A. Yes.

Q. ——that Kurt was killed in action?

A. Killed in France.

Q. Did any of the other brothers serve in the German Army? A. Yes, Edmund.

Q. Did he have any sort of rank or title?

A. He was also an officer, but not when he left Germany prior to 1911 with me because he only served in the capacity of an ordinary soldier at that time. That is, in compulsory service as an ordinary common private soldier.

Q. He returned to Germany when World War I broke out?

A. Yes, he returned to Germany from New York, I would say, about 1915, the latter part, or the beginning of the summer of 1916. He joined voluntarily the German Army while he was residing in New York.

Q. Do you know whether Charles went back?

A. Charles never went back. He never served in the German Army.

Q. Did you serve in the German Army in the first World War? [452]

A. I never have served in the German Army, I never will and never intended to.

Q. Where is Edmund now?

A. Edmund now resides at 61-34 220th Street, Bayside, Long Island.

(Testimony of Friedrich Walter Bergmann.)

Q. Do you know whether he is an American citizen or not?

A. He is an American citizen so far as I remember and had been since 1920 or 1922.

Q. Where does Charles live?

A. Charles is in Spokane, Washington.

Q. What does he do there?

A. He is the owner and manager of the Siberian Arctic Fur Manufacturing Company.

Both brothers have families. They are married and they have children. Brother Edmund has one son, I think, around eighteen years of age right now and my brother Charles in Spokane has two daughters. I would think they are around the ages of—it is hard for me to remember right now—I would think around fifteen and maybe twenty-five. Both are American citizens.

Q. Now, what schooling did you get in Germany?

A. In Germany I finished what you call here the Junior High and then a latter stage. That would be the superior highschool.

Q. What did they call it in Germany? What was the name. [453]

A. The Rehlschule.

Q. Did you finish the Rehlschule?

A. I did to the highest degree. That would be a degree or diploma in the senior highschool here.

Q. You completed the course of study, did you?

A. I did. What we have is ordinary general science, and ordinary knowledge of science, geometry, geology, arithmetic, mathematics, and in regard

(Testimony of Friedrich Walter Bergmann.)

to languages we only studied the vocabulary and grammar of English and French. It is not necessary to study Latin and Greek in the rehlschule in Germany.

Q. The rehlschule would be equal to what?

A. Highschool in the United States.

Q. After you left the rehlschule did you do any further studying?

A. After I left rehlschule I went to Plauen. That is in the State of Saxony where I was born, the southern part, from Dresden where Ihad been attending the rehlschule, and then for one year and a half I was employed as an apprentice in a big embroidery and lace concern for Arnold Von Schwarz. I worked in the capacity of office clerk, as beginner of bookkeeping and accounting work.

Q. Now, then, Mr. Bergmann,——

A. Pardon me.

Q. Go ahead.

A. This would be my practical training. However, my [454] mechanical training was received in night school where I studied commercial law, bookkeeping and accounting as well as salesmanship.

Q. About how old were you when you finished this night school and had this apprenticeship?

A. Well, I can state this to you: I was born in 1893. I finished at about the age of eighteen years, a little below eighteen. I would say seventeen years and six or seven or eight months.

Q. Now, did you attend any university in Germany?

(Testimony of Friedrich Walter Bergmann.)

A. I did not.

Q. You heard a witness testify here that you are a graduate of the University of Bremen?

A. That is not true. So far as I can recollect this day, in Germany they never have had a university at Bremen.

Q. Did you graduate from any university?

A. I did not. That is all the education I received in Germany.

Q. Did you ever tell Mr. Graham you were a graduate of a German university?

A. I never did tell Mr. Graham, the police patrolman. That is not true.

Q. When you finished this night school course and this apprenticeship you were about seventeen and a half years old?

A. Seventeen and a half—well, say seventeen years and about nine months, because I recollect very well that I [455] came back to Dresden to see my mother with my brother Edmund and we stayed about seven or eight weeks with mother because during that length of time the American Consul in Dresden had investigated our papers for entry into the United States. We applied a year prior to this and it took several months investigation because we had quotas at that time in Europe. I got a permit to depart for the United States when I was about seventeen years and ten or eleven months of age.

Q. Well, at any rate, did you come to some decision at that time as to whether you were going to stay in Germany of not?

(Testimony of Friedrich Walter Bergmann.)

A. Yes, I did, and I will tell you why. My mother was poor. As I said before I never remembered the face of my father because I was about four and a half or five years of age when my mother was divorced. My father left home. He associated with other women and my mother was compelled to have a small rooming house where I stayed with my other brother Edmund, who was my guardian later on, in order to make a living as the German courts allowed us so little.

My father was a sharp business man and he protected his money in such manner that there was no possibility for mother to get a proper share that she would get in an American court.

Q. At any rate, Mr. Bergmann, your mother kept roomers?

A. To make a living, yes. Brother Edmund paid my mother about eight marks which is equal to about twenty dollars a month, from his work which he received in another factory as [456] an office accountant in Plauen, which was the same time I had my apprenticeship and night school training.

Q. That is, after the boys got bigger?

A. Yes, of course.

Q. You decided to immigrate to America?

A. Exactly. I was under age, you see, and naturally I had to get permission first from mother.

Q. Did you get it?

A. The permission?

Q. Yes.

(Testimony of Friedrich Walter Bergmann.)

A. It is necessary under German law that you have permission.

Q. What did you do to get it?

A. You first have to get permission from mother that she is willing to have Edmund Bergmann, who was at that time about twenty-five years of age, be appointed my guardian. Otherwise I could not have left Germany because I was under age.

Q. Did your mother give permission?

A. She did.

Q. Did the German courts make Edmund Bergmann your guardian?

A. That is right. The German government had to give permission. If it is a young man under eighteen, he must guarantee in case of war time or not war time he has to serve his military year, but the German government is lenient enough [457] and gives a younger man sufficient time to go out for two or three or four years into the world and get practical experience, he carries that back in his mind to Germany where he then serves the balance of the service or stays in Germany or whatever he intends to do.

Q. At any rate, military service was looming up in your life?

A. Exactly. It was compulsory.

Q. And there was a guardian appointed and you went through the legal formalities to get a passport or permit to leave the country?

A. Exactly.

Q. When did you leave Germany?

A. I left Germany on February 11, 1911, on the

(Testimony of Friedrich Walter Bergmann.)

S. S. George Washington of the Hamburg-American line for the port of New York.

Q. What ship did you go on?

A. I said it a minute ago.

Q. The George Washington? A. Yes.

Q. From what town did you leave?

A. Bremerhaven, which is a little ways from the City of Bremen; like you have here in Los Angeles the port of Wilmington.

Q. I show you here something called an inspection card.

A. This is the inspection card. Shall I translate it [458] for you?

The Court: I can read German. Let me see it.

The Witness: I thank you for your courtesy.

(Passing document to the Court).

The Court: This is written in——

The Witness: This is an inspection card. I will tell you why I carry this card with me.

The Court: This is written in English anyway. It speaks for itself.

Mr. Jacobson: Yes.

The Witness: It has directions in several languages.

The Court: Yes.

Q. By Mr. Jacobson: Where did you get this card?

A. From the steamship company.

Q. And you have kept it ever since?

A. I have kept it ever since because—I will tell

(Testimony of Friedrich Walter Bergmann.)

you why—I can always show I am not a stowaway.

Q. It is pretty late to claim that.

The Court: Now, gentlemen, I think I will make a suggestion at the present time. I think we ought to do away with all these preliminaries because it is quite unnecessary except in the general way. No one is questioning the rightful entry of this man into the United States. His application shows his trip through Canada and other places and he is recognized as having entered the United States legally, so I don't think it has any meaning at all. I don't know what [459] importance it has. He is not charged with being a stowaway or anything of the kind.

We all carry little mementos with us. I will show you mine too. I came on the America and I have not only that, but I have a list of the passengers. We all keep little mementos like that, but what do they mean? They mean nothing in this case.

If we are going to follow this man from the time he came here, we will be here a week going over immaterial matters. I have no objection to him telling us his origin, when he came to this country; but to go into all these details and produce all these little slips which many foreign persons carry—they have to carry them for identification—just to prove he didn't come steerage or come as a stowaway, doesn't mean anything. I am merely suggesting we run over these. There is no charge here of illegal entry.

Mr. Jacobson: The thought wasn't that, your Honor. This is the type of case where the issue nar-

(Testimony of Friedrich Walter Bergmann.)

rows down to where a good deal is going to turn on what you think of the witness' credibility. Now, lots of things happened that he can't prove. He has to say them and hope you will believe them. Other things can be proved and supported by documents.

The Court: I don't see how the credibility of a witness can be determined in this or any other case by showing how good his memory is on other matters and by producing documentary evidence of immaterial issues. [460]

Mr. Jacobson: Well, I may be mistaken, but it was simply the thought——

The Court: There are certain ways of showing a man's credibility. You can't bolster it up when it is attacked, if it is attacked, by showing certain things as to which he has documentary proof.

Mr. Jacobson: Very well.

The Court: I have been very liberal in allowing testimony to go in because this is an equity proceeding. But I fear that with the tendency the witness has exhibited in his answers to you where he insists upon giving you a lot of information that you are not eliciting, why, we will have to confine the inquiry or otherwise we will be going over all sorts of things that are not material to the cause here.

Mr. Jacobson: Very well.

The Witness: I beg your pardon. Could I address the judge one second?

Mr. Jacobson: No, you can not.

The Witness: I see.

(Testimony of Friedrich Walter Bergmann.)

Q. By Mr. Jacobson: Can you tell us briefly where you went from Bremerhaven?

A. From Bremerhaven I went to Toronto, Canada.

Q. How long did you stay in Canada?

A. I stayed two years. I was chief bookkeeper and also accountant for Gruff Bredt & Company.

Q. I asked you how long you stayed in Canada.

[461]

A. Two years in Toronto from 1911 to 1913.

Q. Did you stay in Canada until a certain year?

A. Yes.

Q. What year?

A. I stayed in Canada, I would say, up to 19— my entry into the United States in 1922.

The Court: We have all this information in Government's Exhibit 1.

The Witness: Yes, you have.

The Court: July 13, 1922.

The Witness: '22, yes, that is correct.

The Court: This is your own handwriting, isn't it?

The Witness: Yes.

The Court: This appears in the statement given in conjunction with the filing of petition for naturalization.

The Witness: By Eastport, Idaho.

Q. By Mr. Jacobson: From the time you left New York and went to Toronto and came back to the United States by way of Eastport, Idaho, did you stay in Canada continuously?

(Testimony of Friedrich Walter Bergmann.)

A. I stayed in Canada continuously and during the war time——

Q. Were you registered with the authorities?

A. I was registered as an enemy alien during the years 1914 to 1917.

Q. At any rate you came to the United States after the first World War? [462]

A. Then I went to the United States via Idaho, the port of entry, in July, 1922, to Spokane, Washington, to my brother.

Q. You stayed there how long?

A. One year.

Q. Where did you go from there?

A. One week to San Francisco, then continued my trip about one week or ten days to Los Angeles, and afterwards to Los Angeles to Long Beach, and I have always made my residence there.

Q. When did you come to Long Beach?

A. The early part of 1923, March of 1923.

Q. And your residence has been there ever since. Is that right? A. Ever since.

Q. Now you have taken some exploration trips, have you?

A. I have made four little trips.

Q. Two to Hawaii?

A. I made two trips to Hawaii. The first one took about eight or nine months and the second one about eight or nine months. Then I continued afterward to French Oceania, the Society group of islands, and the first trip was about—well, I better make this clear. I went to Hawaii in 1931 and part of '32,

(Testimony of Friedrich Walter Bergmann.)

and the other trips, says, in '32 and '33 to Tahiti, French Oceania, returning again after eight or [463] nine months, and after staying here a couple of months I continued on to make a trip to the British Cook Islands for another five or six months, returning around '34 to the United States.

Q. Now, all of those trips—during all of those trips on these explorations you were not a citizen of the United States?

A. No, I was not a citizen of the United States.

Q. Did you get a permit to go on these trips?

A. I did. You see, I still was a German and I had to have a passport, naturally, for entry into—that is, for entry into places like the British Cook Islands, I had to show my proper passport and visa.

Q. Do you still have those passports?

A. I gave to the agent of the United States Immigration and Naturalization Department the second passport. The first one from Germany I still have in my possession.

Q. When you left Germany in 1911?

A. When I left in 1911, left Germany, yes. That shows my entry into the United States via Idaho. That passport I still have in my possession, the second one issued by——

Q. Just a minute. You understand the government is not contesting or claiming that you entered the United States illegally.

A. All right, I am glad.

Q. Outside of those four trips, did you make

(Testimony of Friedrich Walter Bergmann.)

another [464] short trip out of the country during those years?

A. I did, just for about five or six days altogether. On July 1st and July 2nd—that was in 1929—I made a trip with a family of well known ranchers from Hemet, California, by the name of Ernest Lindquist, including a son and daughter, to Tijuana. That was about July 1st or 2nd of '29.

Q. You heard a witness testify that you said that no American girl was fit to be your wife or the wife of a German. Did you hear that testified in this court?

A. Yes, I heard it.

Q. Is that true?

A. I say to you it is absolutely a lie.

Q. Have you asked any American girl to be your wife? A. I have asked twice.

Q. And both times you were unsuccessful?

A. One girl in Hemet, the daughter of the same family I just mentioned, and another lady who was here as a witness.

Q. Mrs. Starks? A. Yes.

Q. When did you determine to take out your citizenship papers?

A. Pardon me. I want to mention the girl's first name. It was Edith Lindquist.

Q. Now, then, you decided at one time to become a citizen of the United States? A. I did. [465]

Q. Do you recall about when you first came to that decision?

A. Yes, I can tell you. The decision I made is

(Testimony of Friedrich Walter Bergmann.)

right after I came back from may last trip to the South Sea Islands.

First I came here to Spokane, Washington, with the intentions of becoming an American citizen. Naturally, I tried to do this before in Canada, but that was early in 1920. The reason——

Q. Just a minute. A. Yes.

Q. Let's get back to Spokane. A. All right.

Q. When you went to Spokane what did you say your intentions were?

A. To become an American citizen like my brother Charles Bergmann and Edmund Bergmann. They have been naturalized citizens for a long time.

Q. Then you didn't stay in Spokane?

A. No. I intended to start in business with my brother to whom I loaned a sum of money in order to build his home, a residence on an acreage outside of Spokane where he resided, which building was under construction at that time. I really intended to stay with him and join him in the business, but all my life I have been very independent. I had my own business connections and I felt like a captive bird, you might say, being with my brother and associated with him in [466] business. I realized that I preferred to make my own living.

Q. Be yourself, in other words?

A. So we departed in the most friendly spirit around about January of 1923, I would say.

Q. Well, then you came south?

A. Then I came south, that's it, via San Fran-

(Testimony of Friedrich Walter Bergmann.)

cisco, Los Angeles to Long Beach—about February or March to Long Beach.

Q. Then you stayed here and eventually decided to file your application for citizenship?

A. Prior to this—I want to point out to you —I made very careful observations and, naturally, like any one else who comes from a foreign country, you first have to get accustomed to foreign ways. I came from a country that is nothing but obedience, everything is crowded and it was hard to earn a living, like I said for my brother Ermund, and when I realized—when I saw the open spaces of Canada, especially Western Canada, I realized only then that I preferred the outdoor life more than anything else. From my school days I remembered especially vacation time I was a great believer in joining mountain clubs, and after being inside a business office in Toronto, Canada, for two years I felt the call of the wide open spaces. I felt the life of a rancher would be more interesting to me or the life of a prospector, and that is when I realized, when I stayed in Spokane, Washington, I wouldn't like that business, the fur business because you were [467] always inside.

When I came to Long Beach I realized then that maybe I could start an outside work which would keep me out in the open. That is, I did not have any experience in regard to agricultural methods, but by fate or circumstances when I stayed at the Y.M.-C.A. I walked one Sunday morning down along the beach. At that time the water was very low in the

(Testimony of Friedrich Walter Bergmann.)

Los Angeles river bed and I was able to walk across there. I noticed along that beach front there several signs, real estate for sale signs. At that time that property did not have a street, a paved street. It was just designated on the blue print as Seaside Boulevard.

Q. It was just open country? A. Yes.

Q. Back in '23 and '24?

A. I had never bought land in my life and I noticed one lot was to be for sale by the owner. She had the price marked way down. When I walked back the same Sunday morning before dinner I realized on this side of that Los Angeles River bed—because this in the Long Beach Harbor district—they were about the same size of that one I mentioned briefly where the lady had marked the price way down, but over ten times the price. Instead of being a thousand dollars they were ten thousand dollars. I couldn't see the reason.

Q. Wait a minute, Mr. Bergmann. Was it open land there that you were interested in? [468]

A. Yes.

Q. Did you end up by buying some vacant land? A. Exactly.

Q. And you have been doing that ever since?

A. I have done this ever since, yes, up to this day.

Q. And you have improved it?

A. Yes.

I swam out into the ocean and—I think you have all this information from the different witnesses—

(Testimony of Friedrich Walter Bergmann.)

I filled in my land with dirt that I got from excavation places. I planted shrubs and trees afterwards to beautify the surface, and I think I have been a very civic minded citizen, without boasting, because many times I have heard it from others.

Q. Well, at any rate——

A. That is, in that neighborhood especially. I am talking about outstanding improvements of the real estate.

Q. Do you remember about when you decided to take legal steps to become a citizen of the United States?

A. Yes. I realized after I left my brother that I liked very much these surroundings, especially of Long Beach. It was so different from Spokane where I only remained about ten or twelve months. Here we didn't have the four seasons. In Spokane we had the four seasons of the year, spring, summer, autumn and winter. Here we have sunshine all the time. We did have two or three months of fog but nothing disagreeable enough to say it was discomfortable. I realized I liked Long [469] Beach. Naturally, after you have stayed there continuously and succeeded in your hard work including working on Sundays—I am ashamed to state in this court I have been working the full seven days and taking only a half a day now and then but that was only for downtown business appointments. I have continuously worked that way as I described previously.

Q. Now, at any rate——

(Testimony of Friedrich Walter Bergmann.)

A. I like the people there and the climate. I will talk about the climate first. The freedom of action in regards to assembly, in regards to conversation and in regards to relationships, any way you might refer to it, be it social, be it commercial or otherwise, I like it and that is why I put my whole heart into it. But nevertheless I worked so hard that I wanted to get away from all work for a certain length of time in order to see some other people, not only white people whom I have seen all my life, but I had heard about the yellow people, the brown people. So I wanted to go to a place where different people are living, not only people but trees and birds and that is the reason why I made my trips.

Q. And then you came back from them and——

A. I came back after I made my trips, but they were not strictly pleasure. They were also, you might say, by fate or circumstances, of a scientific nature.

Q. You did get a lot of shells?

A. I said by fate or circumstances I call myself an amateur archaeologist. [470]

Q. I think the Court knows about your collection already, but you made two types of collections. as I understand it.

A. I have a shell collection which is a minor part. It is about five per cent of the total.

Q. Who has that?

A. That is still on display for the public's benefit in the 6th Agricultural District at the State Ex-

(Testimony of Friedrich Walter Bergmann.)

position Park in Los Angeles and has been for the last eight years.

Q. Now, these ethnological specimens are where?

A. The specimens or pre-historic times have been continuously, until last year, early in April, stored with the Los Angeles Museum since 1932.

Q. Now, did you take them away at your own request?

A. I did not. I received a letter from Dr. Woodward and that letter, I think, I have given you for an exhibit.

Q. The substance of it is that they didn't have any room?

A. They did not have the space. They wanted to put some other collection in there, and asked me —they said, "Bergmann, please get these collections removed as soon as possible. Sooner or later we might request a part of them again."

Q. Did Mr. Williams and Mr. Shields help to bring these specimens back?

A. Exactly. Mr. Shields was a truck driver, as I [471] understand it, but I did not know Mr. Williams before.

Q. They helped you anyway? A. Yes, sir.

Q. You heard them testify in court here, I believe, yesterday? A. Yes.

Q. That you gave them the "Heil, Hitler" salute?

A. I did not give the "Heil, Hitler" salute. That is untrue.

(Testimony of Friedrich Walter Bergmann.)

Q. What did you do?

A. When they went away, I said, "Well, boys, so long." I never used the words "Heil Hitler." I know I raised my hand and said, "Well, boys, so long." I am positively sure. I never talked to these men before in my life. I had even never met them during all my social acquaintanceship in the museum. When I came back from my trips I worked as much as three weeks in the museum. I even slept in the museum, but I never met these two men.

Q. Now, try to answer my questions a little bit more briefly, Mr. Bergmann. A. O.K.

Q. Do you remember filing a statement of facts with the Department of Immigration and Naturalization? A. Yes, I do.

Q. It is in evidence as Government's Exhibit No. 1. A. Yes. [472]

Q. Now, directing your attention to Question No. 26, "if necessary, are you willing to take up arms in defense of this country?" What did you write following that question?

A. In the affirmative I wrote down "yes."

Q. Now, I notice there is a sort of a weakly black line under the word "defense." Do you know who put that there? A. I did.

Q. Now, below the word "yes" there is also——

A. The same kind of a line, a wavy line.

Q. Did you do that? A. I did.

Q. Why did you do that, if you remember?

(Testimony of Friedrich Walter Bergmann.)

A. I can point this out to you. That is, I mean this is very important because I am not a conscientious objector. You will see these wavy lines actually corresponding with these lines up here.

The average American might make a straight line this way. I do not use a straight line with my hand, but I do it in wave form.

Q. What you want to tell the Court then is this: When you put a wiggly line under a word you mean to give it added emphasis. Is that right? A. Exactly.

Q. Now, Mr. Bergmann, after you had written that answer "yes" and put those lines beneath it, I want you to give me as close as you can, as accurately as possible what [473] conversation took place between you and the representative of the United States Department of Immigration. Do you remember who it was?

A. Yes, I remember. I think it was this gentleman who is sitting down in front of Mr. Dean.

Q. Mr. Barber?

A. I can not recollect the name, but I remember the facial features.

Q. Was anybody else present besides yourself and Mr. Barber?

A. There was another person, I think to whom Mr. Barber talked after I signed the statement. I think I was sitting there for about ten or fifteen minutes alone, and I think Mr. Barber returned then afterwards alone.

(Testimony of Friedrich Walter Bergmann.)

Q. Now, then, Mr. Barber took this application, I presume, in his hand. A. Yes.

Q. All right. Now, I am directing your attention to this question, not all of the examination he gave you, but particularly to this question.

A. Yes, No. 26. Is that it?

Q. Yes. Now, what conversation did you and Mr. Barber have?

A. I marked down "Yes" and Mr. Barber asked me this question: "To the best of your recollection, Mr. Bergmann, that means in case there is a war against Germany you will [474] bear arms for the United States?"

Q. What did you say?

A. I said to him, "Yes."

Q. What did he say?

A. He said, "Well, that is the question I wanted to ask you. I understood first that you maybe did not want to bear arms for the United States in case the United States has a war with Germany."

Q. What did you say to that?

A. So far as I remember, he understood this from the other man he was talking to because this other man who he was talking to, he talked to me first and asked me certain questions.

Q. All right. Now, Mr. Bergmann, at the time you signed that petition and asked this court to grant you citizenship, would you bear arms against the Third Reich or the Kaiser's country or Ger-

(Testimony of Friedrich Walter Bergmann.)

many, whatever country it is by that name, in defense of this country?

A. I certainly would. I made up my mind right at that time that I will bear arms for the United States and fight against Germany even if I had to fight on German soil for this country here, my country, the United States.

Q. Have you felt that ever since?

A. Always.

Q. Do you feel that way now?

A. I do. [475]

Q. Do you remember being sworn in as a citizen? A. I beg your pardon?

Q. Do you remember being sworn in as a citizen? A. Yes.

Q. Do you remember who gave you the oath?

A. I think it was the pleasure of the gentleman who sits right beside me, Judge Yankwich.

Q. Do you remember the oath being read to you and explained?

A. Yes. There were many people in that room and we all listened to the words.

Q. Did you understand the oath? Understand what it was?

A. Every word. I have read it before many, many times. I also read many times the farewell address of George Washington which has always interested me.

Q. Mr. Bergmann, do you remember having the court read this oath that you would be required to take?

(Testimony of Friedrich Walter Bergmann.)

The Court: The clerk reads it, Mr. Jacobson.

Mr. Jacobson: The clerk reads it, not the court?

The Court: That is right.

Mr. Jacobson: Thank you, your Honor.

Q. By Mr. Jacobson: Now, listen very carefully, Mr. Bergmann.

> "I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity [476] to any foreign prince, potentate, state, or sovereignty, and particularly to Germany of which I have heretofore been a subject; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely without any reservation or purpose of evasion, so help me God."

Did you take that oath?

A. I have taken that oath without any reservation whatsoever.

Q. Do you still mean it?

A. I still mean it.

Q. The reply you made on here in writing was——

A. An affirmative yes, but the wavy line should not be construed as a straight line.

Q. "Yes, with greatest sincerity." Is that your writing?

A. Yes, that is my writing.

(Testimony of Friedrich Walter Bergmann.)

Mr. Dean, I must point this out to you.

Q. Do you remember Mrs. Louise Pelliter taking the stand in this Court?

A. Yes, I do. I remember the lady.

Q. Do you remember her saying that you advised her against buying United States bonds, stating that they were not safe? [477]

A. I never have said "U. S. Bonds". This lady wanted to know what best interest she could get. She told me once she had invested quite a bit in a building and loan association and she got six per cent interest and was disappointed. If I remember right it was the Pacific State Savings and Loan Company.

I said, "Lady, if you are looking for security, don't look on a percentage basis; look for the preservation of your capital. Therefore, you will find it is much better to be satisfied with two and a half per cent or three per cent and buy some good bonds. That is, if you want to buy good bonds, buy No. 1 U. S. Bonds, but you can't expect a very high percentage from them.

"If you want to get good interest on your bonds, buy industrial bonds where you will get four, four and a half or five per cent."

She was interested in six per cent and nothing below that. She was afraid to buy first trust deeds because she claimed sooner or later property would decrease again and she would have to sacrifice even her capital as well as lowering the interest.

I have never mentioned to her not to buy United

(Testimony of Friedrich Walter Bergmann.)
States bonds. I gave her the advice just as I have given it here in repeating it.

Q. In other words, the better the bonds, the lower the interest. Is that it? [478]

A. Exactly, just like anything else.

Q. The higher the interest, the more speculative they become? A. That is right.

Q. Did you tell her as she said you did that German people were more intelligent than American people?

A. I never recollect ever having said that. She maybe did not mean to hurt me; maybe she misunderstood me at that time when we were talking about intelligence and wisdom of people. That doesn't mean to say that one nation should be smarter than the other. Of course, we have a different educational system and——

Mr. Dean: Just a minute, Mr. Bergmann. I ask that the last be stricken as not responsive to the question.

The Court: I think the answer can remain.

Q. By Mr. Jackson: Do you remember Mr. Fred Huggins?

A. Yes, I do. He is my neighbor.

Q. Are you and he pretty good friends?

A. We are not.

Q. There has been a little bad blood between you? A. I should say.

Q. Do you recall him testifying that you said that Hitler was a nice man?

A. I have not said to him Hitler was a nice

(Testimony of Friedrich Walter Bergmann.)

man. Just like I told one other party, Mr. Williams, Hitler thinks he is a Christian man. I don't think I said the word "nice". [479]

Q. Now, did you tell Mr. Huggins when he spoke to you after Pearl Harbor had been attacked by the Japanese Army and Navy that the Japs had to do that?

A. I do not remember ever saying that, never, never. I did not.

The Court: Just a minute. I still didn't get the answer he gave to the other question.

Mr. Jacobson: Let's go back.

The Court: Read it. I got the argument, but I didn't get whether he said he was a good man or a Christian man.

The Witness: No, Hitler thinks he is a Christian man.

The Court: Is that what you told him?

The Witness: That is what I told him. I also told him other people like fanatics might be a believer.

The Court: Read the answer as given; just that part of it.

(Record read.)

The Court: If that is what you intended, that is sufficient.

The Witness: Thank you.

Q. By Mr. Jacobson: The last question I asked you was whether you stated to Mr. Huggins after

(Testimony of Friedrich Walter Bergmann.)

the attack on Pearl Harbor by the Japanese Army and Navy that the Japs had to do that.

The Court: He denied that.

The Witness: I denied that. [480]

The Court: He denied he made the statement.

Q. By Mr. Jacobson: Do you recall Mr. Huggins telling you about introducing you to his mother whose name was Mrs. Duell?

A. Yes. I didn't remember the name at that time, but now since he has been in court I recognize the name was Duell.

Q. Do you remember that you were introduced to her?

A. Yes. I came in one evening for about five minutes, not longer than ten minutes, and he explained, I wanted to get a piece of paper.

He then said to me, "Well, Walter, meet my mother here." She got up and said she just came from Oregon. If I am not mistaken, she didn't reside there, but she said her name was Mrs. Duell.

I said, "Well, that is a French name. I talk French."

She said, "I am not French. I am American."

I laughed and smiled, and said, "I am a Nazi."

Q. What did you mean by that remark?

A. It was just in a joking spirit, just like any one else might do it. I have been known often to do that. They say to me, "Hello, Tarzan." Because I wear my bathing suit six days a week or my shorts. I don't have my dress suit on. A lot

(Testimony of Friedrich Walter Bergmann.)

of people say, "Hello, Dutchman. How are you."

I would answer in the same spirit of socialibility and say, "Hello," maybe if he is English, "John Bull," or "Hello, [481] George."

I have heard "Heil, Hitler" from good Americans who just meant it in the spirit of socialibility, in a joking way; but I never meant to say "Heil, Hitler" in a serious way.

Q. You mean as a German subject would properly say it?

A. Well, you must remember a German subject can not only say "Heil, Hitler" but he has to stand up similar to the way the witness tried to prove here in Court and put his heels together, raise his hand up and speak out not only in actions but in words "Heil, Hitler". That is the way I understand from my American newspapers that the system works in Germany or, unfortunately, in what we call here the German-American Bund where they have that kind of system.

Q. Do you belong to any bund?

A. I do not, and never have.

Q. Do you take any German magazines?

A. I do not read German newspapers. I do not have any German magazines. I never have attended a German meeting, neither in Los Angeles nor any place in the United States.

Q. Do you know the German Consul in Los Angeles?

A. I do not know whether I met Dr. Geisling at the time I went in the office of the German Con-

(Testimony of Friedrich Walter Bergmann.)

sulate in 1932 to get my passport renewed or not. You will find here in this document the word "voided." I had to get for my trip to French Oceania the second passport because I was only in possession of my first passport, and, therefore, that is the [482] party who attended me in the German Consul office. Whether he was the German Consul or his successor or just an ordinary office employee, I can't say. Only I know there were three people in the office and this conversation at the time, when I asked for the permit, that is, a new passport and visa to French Oceania took about ten minutes. Afterwards I had to come back because it was the chief German Consul in San Francisco who had to give his O.K. so it took two weeks before the passport was returned to Los Angeles and I called the second time, then, at that office and got my passport that I had asked for the first time and it was a different party then who attended me. Whether that was the German Consul or not, I can't tell you. Anyway I paid three dollars or five dollars for the issuance of the passport.

Q. At any rate, there is no social acquaintanceship?

A. No, no social acquaintanceship anywhere with regards to clubs or other social meetings. I have never had any contact with Germans in this country.

Q. Have you ever been back to Germany since you left?

(Testimony of Friedrich Walter Bergmann.)

A. I never have seen Germany, never been on German soil since 1911, February 11th, when I departed for America.

Q. Then, as you have indicated, you went to Canada? A. Exactly.

Q. Now, do you have any relatives living in Germany?

A. I have my mother and, of course, so far as I can understand from my last letter which I received in July of [483] last year—that was from my mother telling me my father was still alive. I don't know, though. My mother wrote me, "Dear Walter, I want to mention to you before I die—I am 82 years of age—that your father actually still is alive in Meuhaldensleben and is in the steel and iron business. I only mention this to you because I know you hate your father just like I hate him like I told you before you left for America."

She said to me, "I do it because in case he should die he might remember that he foresook his family, and should there ever be a will left, then, naturally, he might in his last moment before his death remember he has wronged his family and maybe we might be his heirs or receive part of his inheritance."

That was the only reason my mother informed me because I had no feeling, nothing, I am sorry to say, your Honor, for my father. I have absolutely no feeling whatever for my father.

The Court: All right.

(Testimony of Friedrich Walter Bergmann.)

Q. By Mr. Jacobson: Do you intend to go back to Germany?

A. I intended once the war is over to see my mother.

Q. Are you going to stay there?

A. I think I might stay and see my mother, if I can, for six months or eight months, take my mother on down to Italy, the Riviera. She always wanted to go to the Riviera [484] because she has never seen any oranges before in her life with the exception of the time she came to the United States once.

Q. Did you see her the time she came to visit the United States?

A. I am sorry to say I didn't get to see my mother because my mother got the permit from the United States government about June the 2nd.

Q. Not so much in detail, now, Mr. Bergmann. Did you see her when she was here? A. No.

Q. And she went away before——

A. She saw my other two brothers, but not me because they didn't know where I was.

Q. And you learned about it after she returned to Germany?

A. I am very, very sorry to say so, yes.

Q. Now, sir, do you have a lot of securities, cash hidden away in Germany?

A. In Germany?

Q. Yes.

A. I have no securities whatsoever outside the County of Los Angeles.

(Testimony of Friedrich Walter Bergmann.)

Q. Do you have any property outside of Los Angeles County?

A. I have no property whatever outside the County of [485] Los Angeles.

Q. In what banks do you keep your funds?

A. I keep my financial interest in three banks. My main bank is in Long Beach, the head office of the Bank of America on the corner of 4th and Vine. The other two banks are located in Los Angeles, the Farmers and Merchants National Bank as well as the Citizens National Trust and Savings Bank.

Q. You haven't withdrawn your bank account since the service of this action?

A. I have no money withdrawn whatsoever. I gave you all the details to be submitted to this court. Outside of ordinary taxes and ordinary expenses applying to attorneys or assessments, as I say, I haven't withdrawn anything.

Q. Well, business and living expenses is all?

A. Yes, exactly.

I even added to my account, you might say, instead of diminishing it.

Q. Do you remember Mr. Jewels Haschkaw?

A. I do.

Q. How long have you known him?

A. I think approximately thirteen years.

Q. Did you have a conversation——

A. Let's make it this way, from thirteen up to fourteen years.

(Testimony of Friedrich Walter Bergmann.)

Q. It has been quite some time, at any rate? [486]

A. Yes.

Q. Did you have a conversation with Mr. Haschkae in Lincoln Park? A. I did.

Q. For what purpose had you arranged to meet him there?

A. Because prior to this——

Q. Just what was the purpose, Mr. Bergmann?

A. All right. I wanted to show him that sheet of paper, on which sheet I marked down in pencil writing exactly what he told me he would tell in court if I asked him to come as a witness. This piece of writing——

Mr. Dean: Just a moment.

The Witness: All right.

Q. By Mr. Jacobson: In other words, you came to ask him to be a witness?

A. Yes, exactly.

Q. Now, with reference to him being a witness, what reply did he make when you asked him if he would?

A. He said, "Bergmann, I have known you for a long time. I don't know whether the court would like to hear the story or not because I am afraid there are certain things I have to say. That is, they might not hurt you, but they might leave a deep impression upon the court."

I asked him, "What do you mean?"

He said, "I will tell you, Walter. You are an exceptional [487] person. I think you could live

(Testimony of Friedrich Walter Bergmann.)
on air nearly without food if it ever comes to that."

I said, "Well, please go into detail, Mr. Haschkae."

Well, he smiled like he usually does, raised his right hand up and said, "Walter, you are an awful tightwad. That is, Walter, you are so cheap. The people in the neighborhood say that and I know certain things are true. You even save gas because you eat lots of raw fish. You don't want to start a fire to cook your fish."

Then he said to me, "I understand you go over to the wholesale coffee house and when they are roasting coffee you try to guzzle up and save all the coffee beans that fall on the floor so you don't have to buy store coffee."

Q. Is that what he said?

A. Those kind of things. He said he didn't know for sure himself, but it was hearsay, he said, and, of course, naturally, that might come up, what other people think about me, and if that question should be directed to him, he would say those things. Then, he mentioned to me another thing, and that was something which was, I think, very discourteous. He said, "Bergmann, of course, I know and every one knows you are quite a citizen. I know what you have done down there. You have filled in the land, put in trees and shrubs and been a good business man in your own way and made a success financially. But, after all, I feel I can't be of much benefit to you. I know

(Testimony of Friedrich Walter Bergmann.)
that is about all I can say, really. [488] You are loyal and I don't know anything except I remember you said "Heil, Hitler" to me two or three times when you were greeting me when I passed along the fence."

I said, "Didn't you say the same to me one time?" And I said, "Didn't you say, 'Hello, Tarzan, wie gehts,' and I said, 'Sehr Gut'."

He said, "Well, maybe I did, but I didn't mean it."

I asked him, "What do you think? Do you think I meant it when I said to you these expressions of friendship or talked in a joking nature?"

Mr. Dean: Just a minute. If you are going to give his reply, it is hearsay and has no bearing in this case.

The Court: I beg your pardon,

Mr. Dean: The reply would be hearsay, your Honor, and has no bearing in the case.

The Court: I think in view of the fact Mr. Haschkae has testified, and while it is true this is not directed to a categorical denial of the statement it may be done indirectly by giving what the conversation was. However, I think you ought to split it up. I mean you would get along better if you would intersperse a question here and there.

Mr. Jacobson: I will do my best, your Honor.

The Court: The difficulty is counsel can't differentiate nor can I from what the witness is telling us now by way of rationalization of his own actions. I can't tell whether he admitted to Hasch-

(Testimony of Friedrich Walter Bergmann.)

kae that he greeted him twice with the Nazi [489] salute "Heil, Hitler" or whether he didn't, but said he was merely jesting, or whether he was twitting him because he had done the same thing. It is so mixed up in the witness' statement that it is hard to tell which is which.

Q. By Mr. Jacobson: Mr. Bergmann, I want you to get down to the point about the property.

A. Yes, I understand.

Q. Now, when you asked him to testify, he made some remark about some property. Is that true? A. Yes.

Q. Now, give that as quick as you can.

A. He said, "Mr. Bergmann, I will tell you this: I will be a witness for you provided you buy my two lots and warehouse on Santa Clara Street right behind your main property for $10,000.00. I don't need cash but I will give it on terms."

He said, "I will tell you, Walter, I will only take $5,000.00 down in cash and the other $5,000.00 we can split into two different mortgages of $2,500.00 each. Make it $2,500.00 in two years and another $2,500.00 maybe in three years. You know, my son is in the army, and, of course, I am getting old now. I am crippled up with my arm and if you pay me that amount and six per cent interest on the balance, that would be just satisfactory to me. It would be more satisfactory to me than cash."

Q. All right; what did you say to Mr. Haschkae? [490]

(Testimony of Friedrich Walter Bergmann.)

A. I told him, "Mr. Haschkae, this is the way you want to help me?"

He smiled and said, "Well, Walter, what is the matter?" He said, "Is that too high?" Then he continued without I having a chance to talk to him. He said, "I will lower the price. I will make it all cash—I know you are a cash man—I will make it $8,000.00. Isn't that cheap enough, Walter?"

Q. What did you say?

A. And before I had a chance to answer him, he smiled again and said, "Well, $7,500.00. That is the last." And he dropped his pencil which he had in his hand and I picked it up for him. When I picked up that pencil for him I said, "Mr. Haschkae, you call yourself an American citizen. You have known Walter for the last twelve or thirteen years. I came to you once before about three weeks ago and asked you at that time whether you would be willing to be a witness for me and I marked down about eight different answers that you gave me with a pencil on a little piece of paper. That is the piece of paper I have here in front of me and I thought you could call on my lawyer, who is only about two blocks away from me, and if you think you can add anything to these statements in my favor *of* against my favor—it doesn't make any difference—as an American citizen, and then I would be glad if you would come and appear as a witness for me."

Q. What did he say?

(Testimony of Friedrich Walter Bergmann.)

A. I said, "If you approach me now on a business deal [491] and connect a business deal with this—I am in trouble and I am accused—some down from $10,000.00 to $8,000.00 and then come down to $7,500.00," I said, "you ought to be ashamed of yourself." It surprised me and I turned around. I didn't even say goodbye to him. He said, "So long, Walter, God be with you." Just like that in a joking way and in a sarcastic way.

That is all I heard, because I never looked at him any more. I turned around and went back to your office, and the first party I called on was your girl——

Mr. Dean: Just a minute. I ask that the answer to that question be terminated at this point.

The Court: All right.

Q. By Mr. Jacobson: At any rate, that terminated the interview?

A. That terminated the interview with Mr. Haschkae.

Q. Now, referring to Adolph Hitler, there has been testimony here in this court that you admired him and told people you admired him.

Have you made statements of that kind or character?

A. Yes, I have made quite a number of these statements to mostly intelligent Americans. I thought Americans who could think——

Q. Wait a minute. Tell what you said about Hitler.

(Testimony of Friedrich Walter Bergmann.)

A. All right. I will repeat it.

I said, "I saw in the beginning around 1932 or '33, [492] maybe 1934, through the American newspapers that Germany was very much demoralized; that the people I knew before who were very obedient, very lawful, law abiding citizens were rampant. To me, now an American citizen—at that time I was not an American citizen in the sense of the word by having my certificate but I had applied for my application, I mean for my first papers—I felt isn't it sad indeed that Germany was down and out, you might say and didn't have the proper leader. At about that time we heard about Hitler, not so many bad things as we all know today and blame him for rightly. I felt that Germany would have followed the devil, I think, to be pulled out of their misery, out of poverty, out of corruption, graft or whatever you want to call it that was raging in these times of '32, '33 and '34; would have followed anybody who would have said, "Here we are. We can show you how to make the country rich again and prosperous and, like we enjoy here, live in enjoyment."

Now, I heard—that is, I better say I read quite a number of magazines, constructive magazines and books about different countries, naturally including Germany, and when I realized Hitler was talking about a certain movement, that youth movement—we call it the boyscout movement here. I wouldn't say like the Y.M.C.A. It does include the Y.M.C.A. to a certain extent, but we will say

(Testimony of Friedrich Walter Bergmann.)
strictly out of doors in the fullest sense of the word. He called it the Hitler Youth Movement. I told them of my acquaintance—for instance, I [493] would say, "Now, we admire strength. We admire vitality, health. Health is wealth. Health is the greatest thing of all. How can you get it? By living out of doors. Try not to think of liquor and of taking narcotics or, we will say, of bad food, improper ford without proper vitamins. That not alone will be necessary, but you must have bodily exercises."

Q. Is that what you understood?

A. That is what I understood was the Hitler Movement of Youth. As I say, it was similar to our American or any other civilized white man's country's youth movement, athletic exercises.

Q. Did you ever come to the conclusion that the youth movement wasn't as good as you thought it was?

A. I am very sorry to say it did not come out as I expected. And I would like to mention to you more in the years 1935, or the latter part of '35, 1936, '37 and so on I realized that what Hitler tried to do with his left hand in goodness, he has destroyed with his right hand by trying to get those male bodies,—I am talking more about the boys and not about the girls—to get them strong enough so that he could make good soldiers out of them, militarists, for different purposes, whatever purposes you might call it, that is, for war

(Testimony of Friedrich Walter Bergmann.)

purposes, for destruction; not for an asset to build up but for destruction and liability. [494]

Q. Do you admire his youth movement as you now understand it?

A. Never; just the opposite. I was disgusted because he doublecrossed, really, his own people; and not only his own people, unfortunately, the world.

Q. Now, there has been discussion, Mr. Bergmann, that you were an isolationist. You did tell people that, did you not?

A. I have said to people that I am an isolationist.

Q. When did you say that?

A. I have said it many times.

Q. I am speaking with reference to time like before Pearl Harbor or after Pearl Harbor?

A. I mean strictly before Pearl Harbor; never after December 7th on account of the very reason —because after December 7th I figured in a democracy, in a republic like our government, the majority of its people has domination——

Q. At any rate——

A. ——and the minority like Mr. Lindbergh and Mr. Wheeler, including many others, Mr. Reynolds and Mr. Wallace, they went over to the majority. I think not only are we——

Mr. Dean: Just a moment.

Q. By Mr. Jacobson: In other words, the country is at war.

(Testimony of Friedrich Walter Bergmann.)

A. We are going through the greatest emergency——

Mr. Dean: Just a moment. I ask that a stop be put to [495] this explanation of what his opinion of the emergency is.

The Court: All right.

Q. By Mr. Jacobson: Well, the country is at war—— A. Exactly.

Q. ——and that settles all opinions, does it?

A. Exactly.

Mr. Dean: Just a minute. That is irrelevant.

Mr. Jacobson: Is there a motion pending?

The Court: There isn't anything. The answer may stand. He didn't object. He merely said it is irrelevant. I think that is perfectly all right.

In the proof of fraud of any character a man may testify as to his own feelings to much greater liberality than other witnesses might testify. We may ask a person if he intended such an such a consequence or whether he meant such and such a thing.

Mr. Dean: I concede that, your Honor.

The Court: And that is true in all kinds of fraud. This is an action to set aside the citizenship on the ground of fraud, and so long as the witness confines himself to explaining his attitude, there is no objection to the self-serving character of his statements. Ultimately the Court will have to determine what weight to give them in the light of the entire testimony in the record as to what

(Testimony of Friedrich Walter Bergmann.)

his actions were. He is doing better now so let him go ahead.

Q. By Mr. Jacobson: You mentioned having read some books [496] and learned about Hitler's work in reading the Reconstruction of Germany. You mentioned that a minute ago.

A. I read American books, books edited by Americans who either have been visiting in Germany or have received the information through government offices, government departments.

Q. Well, at any rate they were English language books?

A. They were books in the English language, yes.

Q. Have you read Mein Kampf?

A. I never have read Mein Kampf because it is a German book.

Q. Have you read it either in the English or the German? A. No.

The Court: Well, I read it in the German and lectured, in fact, on it at the University of California.

The Witness: I have never read his book.

The Court: I lectured on it early in 1934 and I repeated it as USC. I don't think as a matter of fact American citizenship requires a man to forget his own language. The German language is a beautiful language and the Government doesn't require anybody to forget it.

I am married to an American woman who is the first generation in this country. She didn't'

(Testimony of Friedrich Walter Bergmann.)
speak the English language until she was seven years old. She had brothers in the war, nephews in the war and everything else and she still speaks German. I don't think that matters unless it were shown that [497] a person had particular literature, unless a man were a regular subscriber to particular literature.

Mr. Jacobson: Of course, there is no charge against us, Your Honor, in that respect.

The Court: I know, but I am merely telling you certain things don't mean anything.

There is such a thing as leaning over backwards sometimes. You know what Hamlet said, "Me thinketh the lady doth protest too much." And sometimes you can protest too much.

I don't want the man to deny he doesn't speak German or anything of the kind. It is all right if he doesn't, but I think he is missing something if he deprives himself of the cultural value of the language.

You have heard me speak before the Bar Association and I bring in French words, German words or any words I know that help me put over a joke or an idea. People who know more than one language do that constantly.

All right; his answer may stand. He hasn't read Hitler's Mein Kampf in the original.

Q. By Mr. Jacobson: Mr. Bergmann, you heard a witness testify in this court that you called President Roosevelt a son-of-a-bitch.

(Testimony of Friedrich Walter Bergmann.)

A. I hate to hear that word again, but he accused me, yes.

Q. Did you call him that?

A. I never have. [498]

Q. Have you in your mind differed with President Roosevelt in his policy?

A. I have prior to December 7th, but not after December 7th.

Q. Have you expressed your difference of opinion to people? A. To many people.

Q. Is there anything about President Roosevelt that you have found admiration in?

A. Admiration? I most certainly have, as a tolerant person. I have my likes and dislikes about President Roosevelt. You mention "admiration." I could mention you several points if you want me to.

Q. Just briefly, what in President Roosevelt's career do you admire or do you find yourself in agreement with?

A. I will say I am in agreement with regard to those points—that is, I am going back again to the depression years—I think it was wonderful on the part of our President when he tried to help the youth of the nation especially, which is the backbone of any nation, those who couldn't find employment. I liked his CCC camps, that is not only boys of good families but also boys of the delinquent families. The latter is especially much more important because these boys would make criminals later.

(Testimony of Friedrich Walter Bergmann.)

I admire his great acknowledgement to youth, the backbone of any nation. All right, that is one point. [499]

I would say the second is that President Roosevelt actually has been very agreeable to the working man, that is, in trying to assist him to get more rights in regard to his economical benefit and with regard to his financial benefit so that these laborers could see the spirit of cooperation of our government with President Roosevelt at the head of it. They formed unions and to a certain extent, as long as they go in a moderate way in doing so and in cooperation with industry, they kept these rights up to this day. I think our President Roosevelt has done more in these last ten years, that is, to the best of my knowledge of American history, than any other President.

The Court: How does it happen you feel that way? You never have registered as a voter and voted.

The Witness: I can mention this to you: I did not feel qualified to vote two years ago. Shall I give you the reason why, your Honor?

The Court: Yes, go ahead.

The Witness: I am glad to do it.

The Court: You didn't participate in the political life or even in your local life of your own community in the democratic fashion which Americans do, those who are interested in having certain things done.

(Testimony of Friedrich Walter Bergmann.)

The Witness: I am glad you give me this opportunity to speak out.

I was not qualified, as I say, because of many conflicting [500] statements that were made by Mr. Willkie and by Mr. Roosevelt and other officials who wanted to be elected. I felt I would be a hypocrite if I just voted because I have the right to vote as an American when I really didn't know whether they meant them as just political speeches or whether they were in earnest when they spoke.

The Court: You have a lot of leisure which enables you to study.

The Witness: That is true.

The Court: And you have means. After all, you have a good education, a good background. Your knowledge of English is good and you have ways of sifting the *faults* from the truth.

The Witness: Thank you, your Honor.

The Court: I am not asking you why you didn't vote in a particular way; I am just asking you why, having definite ideas of social betterment you didn't participate in local or national elections which are the only means we know in the United States of effecting the reforms that we believe in and knocking down those we don't believe in.

The Witness: Your Honor, one man can express his feelings in a much more deeper way than another man, especially these men who have deeper feelings for the things of life. If they are not convinced, then they feel unqualified. I speak to you in that spirit, in that vein. I have very care-

(Testimony of Friedrich Walter Bergmann.)
fully and deeply studied so many of these speeches of [501] Willkie and Roosevelt that I felt in the end confused. And I must repeat again in this court that I feel I am not going to be a hypocrite and just vote because I have the right to vote.

This time it was different. This time I was not confused. I voted in the elections of the State, the primary and the final. It is my duty at this time especially.

The Court: All right.

Q. By Mr. Jacobson: Well, of course, there were things about President Roosevelt's policies you didn't like, too, weren't there?

A. Of course, I didn't say all of what I liked. I didn't complete that angle yet. I pointed out the CCC camps. I pointed out with regard to the laboring classes. Of course, there are very many others. I don't want to take any more time than necessary but I can continue.

The Court: I think that is sufficient unless you want to bring out something specific.

I don't think ordinary opposition to policies of an administration in peace time is in itself significant of one thing or another. It only becomes material when taken as a part of a course of conduct when put in its proper place.

Q. By Mr. Jacobson: Now, you have heard testimony, Mr. Bergmann, that you were a Jew hater.

The Court: I don't think that that has anything to do [502] with it unless you want him to dispute

(Testimony of Friedrich Walter Bergmann.)

a certain proposition. Any man has the right to hate a Jew if he wants to. Some people hate Catholics and some people hate Protestants.

Mr. Jacobson: I think the importance is that this man was born in Germany and left there and Hitler, of course, has expressed considerable dislike for the Jews.

The Court: Did you read Senator Holmes' last speech before the passage of the Lend Lease Bill and Senator Wheeler's speech?

Mr. Jacobson: No, I did not.

The Court: It might as well have been written by Goebbels.

Have you ever heard Father Coughlin's speeches over the radio?

Mr. Jacobson: Oh yes.

The Court: Of course, they are all of the same type. They all talk about the international Jew. Mr. Wheeler talked about the Rothchilds and others, asking us to come and fight England's war to save their investments when Rothchilds were either rotting in jail or all their estates had been confiscated long before. So I don't think it is of any significance what Hitler is doing to the Jews or what he is not doing to the Jews.

Mr. Jacobson: Well, of course, it is very difficult to present a case like this, your Honor.

The Court: I mean not that I don't want you to deny it, [503] but to ask him what his views were is immaterial. If you ask him to deny a thing said in conjunction with another matter it is

(Testimony of Friedrich Walter Bergmann.)

perfectly all right, but in itself it is immaterial. A man doesn't have to profess love for any particular group in order to be truly an American citizen. A man might dislike a group, and so long as he does not believe in discriminating against them in political life and depriving them of citizenship, it doesn't reflect on his Americanism at all.

If you want him to deny a specific thing it's perfectly all right, but I don't think his views on the Jews and their place in the world is of any importance.

Mr. Jacobson: As I recollect the testimony, somebody said he stated he hated the Jews.

The Court: No, they said he thought Hitler was right in dealing with them, that they caused the war, or something like that.

Father Coughlin said the same thing. Senator Wheeler said the same thing. You should read the last issue of Time Magazine. You will see some of the things that some of these Congressmen that have been elected said about Roosevelt. One called him a maniac and one praised Hitler.

We shouldn't lose the perspective in this case. We have to take into consideration, to use the German word, the gestalt of the thing to determine it, not pick out a little thing here and a little thing there. [504]

Mr. Jacobson: Well, I don't want to reproach myself later for not having presented the matter fully.

The Court: You didn't ask the question in that

(Testimony of Friedrich Walter Bergmann.)

manner. I objected to the manner in which you asked it.

Mr. Dean: I was going to say, your Honor, there was one statement by one of the witnesses that Mr. Bergmann had allegedly stated that the press of America was controlled by the Jews.

The Court: Oh yes, there is such a statement.

Mr. Jacobson: I have a note that Thomas Shields said that Hitler said, "I don't like the Jews."

The Court: All right, if you want him to say he likes them, it is all right with me.

Mr. Jacobson: No, I don't want him to say that.

The Court: I don't care how he feels toward them. If you want to have a categorical denial of anything in the record go ahead and do it; but I didn't want you to bring in a question that I don't think is material. So far as charging certain influences on the Government, that is material because it exhibits a pattern of mind that may be important.

Mr. Jacobson: Very well.

The Court: That statement might be important as exhibiting a pattern of mind because that pattern exists in certain groups and has been repeated here in this country repeatedly. So when you see a pattern you may trace its origin and draw a certain consequence from that fact. [505]

Q. By Mr. Jacobson: Do you remember Mr. Graham testifying here the other day, Mr. Bergmann? A. Yes, I do.

(Testimony of Friedrich Walter Bergmann.)

Q. Do you remember him making this statement in substance——

The Court: Let's see; Graham was the police officer, wasn't he?

Mr. Jacobson: Yes; who visited him frequently.

The Court: That is right. I just wanted to identify him. There were so many here.

Q. By Mr. Jacobson: Do you remember Mr. Graham saying in substance that you said, "I obtained my citizenship papers as a business protection and I will bless God when I can tear them up and leave this country."

Did you hear him say that?

A. I heard him say that.

Q. Did you tell him that? A. He is a liar.

Q. Did you ever tell anybody you would bless God when you could tear them up?

A. I never did in my life and never will.

Q. Did you ever have any intentions of tearing them up? A. Yes, I did.

Q. When?

A. Once I mentioned to Mr. Beck and those three other officials when they called on me for a contribution to the [506] YMCA, I said to Mr. Beck, "Should it ever be that we have a union with the British and in that union the aristocracy, the nobility, what we call the dukes, the counts and the barons, I would tear them up."

I included as an example the fact that you might meet Mr. Smith on the street and have to address him as "Lord Smith" just because he was born in

(Testimony of Friedrich Walter Bergmann.)

that class. He would be offended if I didn't say "Lord Smith" but just said "Mr. Smith" to him.

I would like to see the English talking people form a union only in that spirit that they are strictly adhering to the republic and democratic rules of this country, but not including any nobility; because if we have nobility then we have class distinction, and if we have class distinction it is just like George Washington says in his farewell address, we have disruption, and we want to be away from those things.

Q. In other words, you didn't want one political government, that is, one nation out of the two nations? Is that it?

A. Oh yes, one nation, because we are the English talking people. That doesn't make any difference whether they are English or not. They are called Welchmen, Scotchmen, Irishmen, Australians, New Zealanders. We are all English talking people.

Q. Let's get back to the question I propounded to you. You say you never made the statement. Then I asked you if you ever made the statement to anyone else and you started [507] to tell us whether you made it or did not make it to this group from the YMCA.

A. I made the statement.

Q. You told them then that you would tear your papers up if you ever had to kowtow to English royalty?

A. If I ever had to kowtow to English royalty

(Testimony of Friedrich Walter Bergmann.)
and nobility, correct indeed, I would; right this day I would.

Q. How did the question come up? Did they mention anything?

A. Yes, because Mr. Beck offended me in certain ways. He said, "Here you are, Walter. I know you and have known you for many years. You know what Germany is. Look at the dictatorship you have at home and the imperialism when Kaiser Bill was there. Now, we have come for a contribution. I think it is very disloyal the way you look at things."

So I answered him in the same conversation, "I think I do my duty. I give to charity personally, direct to persons right in this community, Mr. Beck. Besides that I contribute quite a bit to charity, about $200 a month through my taxes and otherwise. Also I give directly to organizations. Now, you feel that since I like so much the YMCA that you would come out for a contribution. You came out a year ago. You even came two years ago with your wife. I also told you, Mr. Beck, in my inheritance, in my will—I have told you last year and the year previously—I will donate quite a bit of my wealth to the YMCA. [508]

"Now, a man can express himself in such a spirit, Mr. Beck, and still be a patriotic citizen."

Then he answered me, "Well, Walter, we are living now in these days. You may not die for 20 or 30 or 40 years when God wants you to die. We need the money now."

(Testimony of Friedrich Walter Bergmann.)

I said, "Well, everyone has his own ideas. I refuse you this time again, Mr. Beck, in the most cordial spirit because, as I said before, I have my intentions, I make my donations in my own way, the way I like them to be made."

And then he said, "You ought to be ashamed of yourself, Walter. Here you came from Germany. You got your wealth here. You got oil. You got real estate and bonds and stocks and you are so tight," he said, "I am ashamed of you."

I said, "I am not ashamed at all in this regard and I think I am doing my duty when I do it in a different way than some other people express their gratitude to the country."

Q. The question was with respect to a common union with England.

A. Exactly. We continued then afterwards about other things, political and otherwise and he mentioned to me that I was an American citizen and was used to speaking the English language and used to the English ways, therefore I should know how to behave myself. Then came the conversation about the English talking people in general. He said to me, "I am a Dane but I am proud to be an American and you should be in the same spirit."

[509]

He said, "I have not done as well as you have, Walter," and that is the way we continued for some time and he said, "That is the way of the English talking people, the English people in general. They will all have that same combination of thoughts

(Testimony of Friedrich Walter Bergmann.)

because this is democracy. You have been away for a long time from a country which has nothing but Prussianism or Imperialism, or whatever you want to call it, and now in these days we have to get strength and strength is by merger or union like you no doubt have read in the papers. We have intended to unionize maybe the British and American peoples. Wouldn't that be a wonderful thing, Walter?"

Q. Is that what Beck said? A. Yes.

Q. What did you say?

A. I said, "You think it is wonderful, Mr. Beck. If that should happen, including the nobility, I would tear my American papers to pieces. I would be glad to be with that union if it is not with aristocracy of Britain," and the other party, I don't know who it was, said, "Let's go, Mr. Beck. It is no use to talk to that man." And they just turned and said, "Goodbye." That is the story.

The Court: And they didn't get a contribution?

The Witness: No, they did not, because I had explained to Mr. Beck three times before what my thoughts were. I give my contributions directly in the district. [510]

The Court: All right.

Q. By Mr. Jacobson: Do you remember when Mr. Casey and Mr. Gibbons called on you?

A. I do; I think May 9th of last year.

Q. About how long were they there?

A. Altogether I would say from 1:30 or 1:15 to as late as, I would say 7:00 o'clock or 7:30.

(Testimony of Friedrich Walter Bergmann.)

Q. Was there any interruption at all there while you had your dinner?

A. Was there any interruption while I had my dinner?

Q. I mean, did they keep on talking to you all of the time?

A. Well, certainly not, because they told me that they had also a search warrant and I said to them, "Just keep it right in your pocket, Mr. Casey. I don't even want to look at your search warrant. You are welcome to search my property and the garage, whatever you want to call 'property', even the grounds, if you want, underneath the house."

Q. You don't understand me, Mr. Bergmann. I say they were there perhaps six hours?

A. Yes, I'd say from 1:15 or 1:30 to 7:00 o'clock.

Q. Were you and Mr. Casey and Mr. Gibbons more or less together during that period or did you take time out to eat?

A. No, we were always together with the exception they left the place between the hours, I think, of 4:00 or 5:00 o'clock, or 3:30 and 5:00 o'clock to write down in his auto- [511] mobile his paper from the penciled written copy.

Q. Who was writing?

A. Mr. Casey. It took an hour or an hour and a half in the middle of those periods between 1:30 and 7:00 o'clock, we will say.

Q. Mr. Casey wrote out the one you finally signed? A. Yes.

(Testimony of Friedrich Walter Bergmann.)

Q. But I mean while you and Mr. Gibbons and Mr. Casey were talking together were there any notes taken by anybody?

A. Nobody else. I was telling my things and he took those notes right there. He was sitting right beside me on my bed.

Q. Who? A. Mr. Casey.

Q. Those notes were taken in pencil?

A. Exactly, every word what I said, right away at the same time he marked down with his pencil on a yellow piece of paper. I am pretty sure the color was yellow.

Q. Something like a lawyer's tablet?

A. Yes, with pencil, every word. He didn't wait until afterwards. Out in the car it was rewritten by him in the presence of Mr. Gibbons in ink.

Q. Have you ever seen that penciled memorandum? A. Not here.

Q. You read the statement which has been introduced in evidence, I think, as Government's Exhibit 2? [512] A. Exactly, yes.

Q. This consists of nine pages, letter size?

A. Yes.

Q. Now, you have read this since you came to Court? A. I did.

Q. Is there anything omitted from here that was discussed between you and the two agents?

A. Yes; I am satisfied not only in one instance but in several instances Mr. Casey did not actually mark down on this paper which is written in ink

(Testimony of Friedrich Walter Bergmann.)

exactly the quotation that was on the penciled copy. I called his attention to that in front of Mr. Gibbons.

Q. What did they say?

A. Mr. Casey said, "I will tell you, Mr. Bergmann, some of those things, I don't think they are really necessary."

I said, "Well, don't you think it is necessary that I bought a United States Government Bond right away, seven days after the Japs declared war?"

"Well, I don't think so." That is all he said.

I said, "Well, if you don't think so, it is perfectly okay with me. You can leave it out. Only I want to ask you this question——"

The Court: He put it in on the last page.

The Witness: He just puts in "A bond."

The Court: That you bought a thousand dollars worth of bonds and intended to buy an average of a thousand dollars [513] worth of bonds every six months. That is on the last page.

Mr. Jacobson: It says here, "I have bought about $1000 in U.S. Defense Bonds and plan to buy $1000 worth every six months."

The Witness: I beg your pardon. I take back what I have said. I am sorry. You have it down, Mr. Casey, so I apologize to you in public.

But there are other things, Mr. Casey, and I have called your attention to it and hope you will remember it and repeat it in court because Mr. Gibbons wasn't present. I said, "There are many more

(Testimony of Friedrich Walter Bergmann.)

things——" I won't say "Many" I would say six or seven or eight.

Q. By Mr. Jacobson: Without going into detail can you just list them by subject-matters on your fingers, these subjects which were discussed and do not appear in this statement?

A. Well, I only had the pleasure of reading it over again here yesterday and today. Naturally, if you have never been approached by the FBI agents in your life, any man, even with a good clean conscience feels depressed by such a thing and I was very much upset. I was pretty well able to take control of my body and my mind, but nevertheless I felt depressed.

The Court: You are not answering his question. He wants you to tell him something about the things that you [514] told Mr. Casey that he left out.

Mr. Jacobson: May I suggest the topics to him, your Honor?

The Court: Go ahead, ask him.

Q. By Mr. Jacobson: Was there any discussion about whether or not you had thrown a United States Navy uniform on the ground?

A. Yes, he asked me once——

Q. Was there a discussion about that?

A. Yes, he asked me once that question.

Q. And your reply was what?

A. I replied, "I never have thrown down any United States uniform."

The Court: That is in the statement.

Mr. Jacobson: Is it?

(Testimony of Friedrich Walter Bergmann.)

The Witness: I gave the reasons.

The Court: It is in there.

Mr. Jacobson: I forgot that one, your Honor.

The Court: I have gotten so I know it better than you do.

Mr. Jacobson: Maybe you have studied it better than I have.

The Court: I have. Don't you think I didn't study it.

The Witness: It is in there.

Mr. Jacobson: Maybe I had better not suggest things.

The Witness: I do remember it. The Judge is correct. [515] He asked me the question "Did you ever throw down any United States Navy uniform?" That is the question.

Q. By Mr. Jacobson: Yes, but I understand the Court says that is in the statement.

A. Yes, it is.

Q. What I was trying to get out of you, Mr. Bergmann, is this: You said there were things that you and Mr. Casey and Mr. Gibbons talked about that don't appear in this statement.

The Court: I will see if it is here.

The Witness: He didn't put down charitable contributions.

Q. By Mr. Jacobson: Is that in there?

A. No.

The Court: Well, everybody has testified with respect to your intentions to leave all your money to charity, so that is all right.

(Testimony of Friedrich Walter Bergmann.)

The Witness: It is prior to this. Right now I am living, your Honor. That has not been put down "During my lifetime," I don't mean after my death.

Q. By Mr. Jacobson: You mean you talked about charitable donations now?

A. Certainly. I have given about $200 every year through my city and county taxes. You have here an exhibit to prove about what the amounts are.

Mr. Dean: Your Honor, it is on the next to the last [516] page.

The Court: I have it. I knew it was in there. Here it is. "On one occasion there was some——" Casey writes just like a lawyer. I can't interpret his writing.

Mr. Jacobson: I understand he is a lawyer, your Honor.

The Court: They are, most of them, except those that are accountants. You know, we lawyers are notorious for our writing.

Well, you see, he explains it there. He said some may have been washed off or something, washed off the lot, maybe.

Mr. Jacobson: Yes, that is in there, your Honor.

The Court: All right.

Well, so long as Mr. Jacobson has failed in two attempts to call your attention to something that is missing, maybe you can try and tell us something aside from your charitable contributions, something you told Mr. Casey of importance that you think he left out.

(Testimony of Friedrich Walter Bergmann.)

The Witness: He left out, for instance, I never have had an automobile. I never have had a radio. I never have had a telephone in my house. Those are all matters with regard to transportation and communication facilities. So many people have accused me wrongly, that I might be a German agent or a German spy, and, your Honor, those things relating to transportation and communication facilities are absolutely necessary for a spy and an agent. Those things I mentioned to Mr. Gibbons and Mr. Casey. [517]

The Court: Well, others have testified to the fact that they have never seen you possess means of transportation so we will leave it as it is now.

The Witness: I also told Mr. Casey about a man in 1936 or '37 who approached me.

The Court: That is in there.

The Witness: No, that is a different party. That was in 1941.

The Court: I see. You mean again in 1941?

The Witness: There have been two different occasions. He only refers to the last occasion which is in the paper, but not the former one. He never put that in. I told him that in front of Gibbons. What he put down refers to 1941, a man by the name of Herman or Hermann, but the other one he did not put down and actually Mr. Gibbons in front of Mr. Casey asked me the question, "Mr. Bergmann, if we would come down in a few days and bring an album of photographs, do you think you could

(Testimony of Friedrich Walter Bergmann.)

identify that person whom you say is 6 feet tall with blue eyes and blond hair?"

He had his head, of course, but I told him I thought it was very fair hair. Anyhow he called on me in about 1937 during June or July while I was working out in my garden. He mentioned his name but unfortunately I do not recollect his name, like I told Mr. Casey and Mr. Gibbons.

He said, "Mr. Bergmann? Is that your name?" I said, "You will pardon me; I am digging a hole for a [518] tree here and I am dressed in my old clothes."

He said, "That is all right." He said, "Could I talk to you for a few minutes?"

I said, "Let's go sit in the garden house." So we went and sat down in the garden house.

He said to me, "Mr. Bergmann, you have been recommended to me as a person with very high intelligence, from German acquaintances you have in Los Angeles."

I said to him "Mister (I have forgotten his name now) will you please tell me who these German acquaintances are because I do not have any German acquaintances in Los Angeles?"

He smiled and said, "Will you be kind enough to look us over?" He said, "I will tell you what I really wanted to ask you. There is good money in it for you. Is it possible that you could inspect certain merchandise which is either imported or exported from the Los Angeles Harbor and otherwise

(Testimony of Friedrich Walter Bergmann.)

give us certain information we might ask you sooner or later?"

Before he got finished with it, I said, "Mr. (whatever his name was) I think you must be mistaken." I got up from my bench in the garden house and said, "Mr. (whatever his name was) I think you have the wrong person. All I want to ask you in the most courteous way is, Will you please leave my premises?" He was very polite. He smiled, put his pencil back into his pocket and said, "So long. Good luck to you." And he left. [519]

If I had been smart enough, I am sorry to state, I could have maybe taken down the number of his car.

Mr. Casey—no, it was Mr. Gibbons who asked me, "Mr. Bergmann, do you remember what kind of scar he had? Or did he have a scar?"

I didn't mention it at first to Mr. Casey. I remember he had a small scar over his right eye and one below on his head.

Mr. Gibbons said to me afterwards, "Well, Mr. Bergmann, if you think it is possible that you could identify that man's photograph, maybe I know who he is. We might come down in three or four days with an album. Would you be here?"

I said, "Sure; I am certain I will. Sometimes I am away for awhile, but you just leave a note." But the FBI agents never came back.

Mr. Jacobson: Q. You told Mr. Casey——

A. That was in 1937; I would say either in June or July.

The Court: That is what you told Mr. Casey?

(Testimony of Friedrich Walter Bergmann.)

The Witness: That is what I told Mr. Casey. Pardon me. I think it was Mr. Casey. It was Mr. Gibbons who gave me the reply whether I would be able to identify that person.

The other case is about Mr. Herman or Hermann.

The Court: Well, that is already in the statement. There is a statement in there about Hermann. [520]

The Witness: Is there a statement about the Second Engineer who called on me with a photograph?

The Court: Yes, that is in there.

The Witness: Oh, I see.

He told me he came from the German Consulate.

Mr. Jacobson: Okay, Mr. Bergmann.

Q. Do you recall anything else you discussed with Mr. Casey and Mr. Gibbons which is not in the statement?

A. It is pretty hard to answer this question, your Honor. I have not had full opportunity to read this carefully. It might be in a half hour's time I could remember more, but to my recollection that is all.

I earnestly request your courtesy that the pencil copy of Mr. Casey's be introduced in this court.

The Court: We will leave it to your attorney to request it, if he has it.

The Witness: I thank you.

The Court: All right.

Mr. Jacobson: I am asking you if you recall anything else. By way of suggestion was there some discussion about the Coast Guard in Long Beach?

(Testimony of Friedrich Walter Bergmann.)

A. Yes. I think—let me see—it was May when he called. You mean afterwards.

Q. No, I am talking about the statement, Government's Exhibit No. 2. You have previously informed the Court that the statement is not complete, that is, that there were things [521] you talked about and told Mr. Casey and Mr. Gibbons that were not written up and you have mentioned this incident of the man in 1937.

A. Yes, of course.

Q. Do you recall anything else?

A. His Honor, the Judge, he thought about contributions only after my death. I want to again point out——

Q. Wait a minute.

A. ——it is during my life I made contributions.

Q. Let's stay on one subject only, Mr. Bergmann.

A. Yes.

Q. I was to give you every opportunity, and the Court does, to explain things that you talked about with Mr. Casey and Mr. Gibbons which presumably you think they wrote down on a yellow sheet of paper, but which are missing from the copy that Mr. Casey wrote out in longhand and which you signed after making certain corrections.

Now, you have given us one item.

A. Yes.

The Court: Are there any others?

Q. By Mr. Jacobson: That is the subject we are trying to stay with.

A. Yes. I plainly told Mr. Casey and Mr. Gib-

(Testimony of Friedrich Walter Bergmann.)

bons that I had had admiration for Mr. Roosevelt, especially since 1932, the time of the deep depression in our country, and gave him reasons for it. I told him about the CCC camps and [522] about the old people's pension fund and all of that; that we have to give credit for many things to Mr. Roosevelt.

Q. Did you tell them that?

A. Yes, I told them things I like about President Roosevelt, and, of course, I told him also I was disappointed that it was through our President Roosevelt that liquor got back again in 1931. I also told Mr. Casey——

Q. You don't like that?

A. Because Mr. Casey was asking me—he said, "I see some liquor right here, Mr. Bergmann."

I said, "That is only light wines." I said, "I do not believe in liquor if it is a heavy liquor like whiskey and gin. I absolutely believe that they should be prohibited. If we only had light wines and light beer, what a great nation we could be in the future. Whiskey and alcohol ruins a nation."

Q. Wait a minute. Did you tell Casey that?

A. Yes, I remember I did, because he smiled about the jug of wine he noticed down there on my kitchen cabinet.

Q. Casey thought that was liquor?

A. He knew it was liquor, or it was light wine. I offered him the wine and I offered it to Mr. Gibbons and both gentlemen told me, "Well, we are not permitted by law to drink."

The Court: On duty.

(Testimony of Friedrich Walter Bergmann.)

The Witness: Exactly. That is correct. I forgot that. [523]

Mr. Jacobson: Could we adjourn now, your Honor?

The Court: Yes. We will take our regular adjournment until tomorrow morning, gentlemen.

(Whereupon at 5:05 o'clock P.M., an adjournment was taken until 10:00 o'clock A.M., Friday, November 20, 1942. [524]

Los Angeles, California,
November 20, 1942.
10:15 A.M.

The Court: Are there any ex parte matters?

(No response.)

Calendar matters?

(No response.)

Cause on trial.

FRIEDRICH WALTER BERGMANN

the witness on the stand at the time of adjournment, resumed the stand and further testified as follows:

Mr. Jacobson: May I have Government's Exhibit 2, please?

Direct Examination (Continued)

By Mr. Jacobson:

Q. Mr. Bergman, I show you Government's Exhibit No. 2, and beginning with the last paragraph I want you to look at that and I will ask you a question about it.

A. (Examining document.)

Q. What is that, page 6, Mr. Bergmann?

A. Page No. 4.

Q. 4? A. Yes.

Q. In this statement taken by Mr. Casey and which you signed, you notice the statement there, "I am disgusted with the white men for getting into this war"? A. I do. [526]

Q. What do you mean by that statement?

A. When the last war was ended in 1918 in the defeat of the other nations we fought against—that is, Germany, Austria, Bulgaria and what we call the enemy nations, in other words—the statesmen failed to so organize the world afterward to keep peaceful nations from being attacked by aggressor nations in the future.

Q. In what way?

A. That is, they failed to do that.

Q. In what way do you think they failed to do that?

(Testimony of Friedrich Walter Bergmann.)

A. Well, I would say Italy, Mussolini of Italy invaded Ethiopia, for instance, and the Japanese invaded Manchuria and the statesmen of the world did not stop Hitler when he went into Austria and part of Poland and attacked other nations. They should have had enough nerve then as statesmen of the world to prohibit Hitler from doing that. They did not do that; they appeased Hitler.

Q. You have in mind something like the League of Nations?

A. Call it the League of Nations if you wish—I don't know, whatever name you might put to it—a police force of the world, the different statesmen of the civilized nations of the world gathered together in an association that is called, say, the League of Nations so as to prevent any future aggression, so they can never even have the opportunity to attack and invade another peaceful country whether small or large in size. [527]

Q. Now, read on in that statement—it is about four or five lines—until you come to the statement, "The whites should attend their own business."

Have you found that statement?

A. Yes, "The whites should attend their own business."

Q. Do you care to explain that statement?

The Court: Well, that statement goes with the complete statement. That in itself doesn't mean anything. The sentence which follows it there shows what he means. He says, "East is east, west is west,"

(Testimony of Friedrich Walter Bergmann.)

and so on. The entire paragraph should be read, not one sentence separately.

The Witness: I meant by "The whites should attend their own business"——

The Court: Just a minute. I read this with a pencil and in going over it I checked certain things on the side, but I will take them off because they don't mean anything except to me. Go ahead and explain that "The white people should realize——"

Mr. Jacobson: No.

The Court: The entire paragraph should be read if you are going to have them explain it, because it says, "I am disgusted with the white men for getting into this war." Then he went on to say, "The white people should realize that east is east, west is west, north is north and south is south. They should not go beyond their rights. The whites should attend their own business. Other races should be [528] allowed to worship as they please and missionaries should not be sent to tell them they shouldn't worship their idols." That is a complete thing in itself. I can't see that it helps very much to take one sentence at a time. Evidently this is the familiar cry of "Asia for the Asiatics."

Mr. Jacobson: That is just the point, Your Honor; I don't think it is. That is why I want him to explain what he had in mind.

The Court: To explain it you can't take just one sentence.

Mr. Jacobson: Of course, this man is not a skilled writer of the English language.

(Testimony of Friedrich Walter Bergmann.)

The Court: Well, I don't know whether he is or not. It is all right with me if he wants to explain each paragraph, what he means, but that is a complete philosophy just as there are others in there which should be taken together. To take just one sentence—for instance, "The whites should attend their own business" is an innocuous statement that anybody could make. But when you take, "The white people should realize that east is east, west is west, north is north and south is south, they should not go beyond their rights. The whites should attend their own business." Then it isn't just an innocuous statement. It expresses an entire thought.

Mr. Jacobson: That is right, and I think the thought is incomplete and misleading. I don't think it is complete.

The Court: I have no objection, except I don't think it [529] is proper to take the top statement and the bottom statement of this entire paragraph and have him just explain them and not take the whole thing as a whole. Of course, that could be done later on after you have completed the examination. I am not trying to interfere with your method of examination. Some of these are very difficult to decipher because things were scratched out and he wrote over them.

The Witness: The reason is because——

The Court: You go ahead. You have heard me read the entire statement. You go ahead and give what expression you have.

The Witness: I meant particularly that——

(Testimony of Friedrich Walter Bergmann.)

The Court: What you meant by the expression.

The Witness: Each nation to have the right to live its own way as each nation wants to live as long as they don't aggress on the rights of others, whether they are small or large.

Q. By Mr. Jacobson: What about religion, Mr. Bergmann? A. I beg your pardon?

Q. What about religion? You have mentioned in here about worshipping as they please.

A. Well, the same thing. I feel that if the Africans or the yellow people want to worship one idol or two idols or three idols, they have the right to do so. It is not for us white men—it is not right for us white men to send missionaries there and tell the people they do wrong, that they will [530] not be received in the Kingdom of Heaven just because they happen to worship several idols. They show respect. They know they are inferior to something supreme, something superior.

Q. Wait a minute. In other words, you think they have a right to their own religion?

A. That is it exactly.

Q. Do you have the statement in front of you?

A. Yes.

Q. If you read down—I think it follows the words "They should rather prevent human sacrifice and head hunders"—you will find the next sentence starts "As an American citizen——" Will you read the next two or three statements?

A. On page 5?

Q. I believe it is on page 5. I can find it for you.

(Testimony of Friedrich Walter Bergmann.)

Starting with "As an American citizen——" and then there are two or three sentences. Read them out loud.

A. "As an American citizen I would defend this country wherever the U. S. flag flies. It is not correct to be sent outside the borders of the United States to fight under a foreign flag. I want to see the end of the Hitler regime in Germany. I want to see Hitler licked but not the German people."

Q. Now, it would appear there is a contradiction in two of these statements. You have said "As an American citizen I would defend this country wherever the U. S. flag flies." [531] Then you say "It is not correct to be sent outside the borders of the United States," you said, "to fight under a foreign flag."

A. I mean as an American citizen I would defend this country wherever the United States flag flies. The other statement is not quite clear. There is something missing, what Mr. Casey no doubt marked down on his original pencil copy which he used in my house. I would like to have that pencil copy.

I would defend this country wherever the U. S. flag flies. That is what I mean.

Q. Now, Mr. Bergmann——

The Court: Did you mean to say you didn't make the statement "It is not right to be sent outside the borders of the United States to fight under a foreign flag?"

The Witness: I did not mean—not that meaning. I never did mean it that way because you can see

(Testimony of Friedrich Walter Bergmann.)
yourself, your Honor, "As an American citizen I would defend this country wherever the U. S. flag flies." That is why I asked you to read over carefully the penciled paper.

The Court: If it exists, I will have the Government produce it.

The Witness: This is incomplete.

Mr. Dean: Your Honor, may I say at this time, of course, we do have Mr. Casey's notes and are very happy to produce them if the Court wishes them. [532]

The Court: The witness of his own accord feels there is a deviation and, certainly, he has made certain changes. There are a couple of pages here where he has changed the contents. I have studied this paper very carefully where there are changes here that entirely transform what was down here and in view of his feelings that this may not correspond to the notes, why, if there are notes I want to see them.

Go ahead.

Q. By Mr. Jacobson: Did you ever see Mr. Casey's private notes?

A. I did, because he was sitting right beside me on the bed.

The Court: That is all right. They are there any they will be produced in due time.

Mr. Jacobson: I just wanted to know if he read them.

The Witness: No, never. I know he wrote them down, but I never read them.

(Testimony of Friedrich Walter Bergmann.)

Q. By Mr. Jacobson: You know what is in this statement because you signed it.

A. I know what is in this, yes.

Q. Now, let's go ahead. Do you remember both Mr. Kennedy and Mr. Vaughn of the Building Department? A. Yes, I remember them.

Q. They testified as follows: "We—Hitler will use gas to win the war." Do you remember them saying that, both [533] of them?

A. Yes, I do.

Q. That you told them that in the Building Department? A. I did not.

Q. Did you tell them that?

A. No, not the way they have said it in court. They must have misunderstood it, because we talked about the war in general and I said, "I believe Hitler will use gas if he sees that he is losing the war." That is what I said to them.

Q. You said "He would use gas"?

A. I am quite satisfied they misunderstood me because I never said "We". I am very sorry they ever made that statement. I have high regard for Mr. Kennedy, especially.

The Court: All right.

Q. By Mr. Jacobson: Now, Mr. Bergmann——

The Court: Let me interrupt. I just want to ask one question.

In looking at this I found it. Now, you say you didn't make any statement to the effect that it isn't right to be sent outside the borders of the United

(Testimony of Friedrich Walter Bergmann.)

States to fight under a foreign flag, that you didn't make it in that form?

The Witness: I did not, your Honor.

The Court: I read this statement then. I am showing you the paragraph at the bottom of Page 5.

The Witness: Yes. [534]

The Court: You made a modification of the statement here, see?

The Witness: Yes.

The Court: Start right there and tell me why you put those words "Outside of the United States" and put that modification in there if, as you say, you didn't make the statement that it is wrong to be sent out of the United States?

The Witness: "If the law so required, I would fight against the Germans, but would prefer a non-combatant service."

The Court: All right; that is the way it read at first. Now read what you wrote in there when you corrected it.

The Witness: I did not write it.

The Court: You asked to have it corrected? You initialed it.

The Witness: Let's see. "I would fight against the Germans but would prefer a non-combatant service outside the U. S., but if U. S. attacked by any, I would fight."

The Court: I will tell you what it says. Before you had it corrected it read, "I would fight against the Germans but would prefer a non-combatant service." That is the way it read, and there was a period

(Testimony of Friedrich Walter Bergmann.)

there; then you put in—then there was added to this, "outside the U. S. but if U. S. attacked by any, I would fight."

Those are your initials?

The Witness: Yes, that is my initials, correct.

[535]

The Court: All right. Did you ask that that change be made?

The Witness: I meant I hoped I would not have to fight against Germany, but if the law says it is necessary, as I have stated already in my declaration, that is, in my naturalization papers, I will do so any time they want me wherever the United States flag flies.

The Court: I see. All right.

Q. By Mr. Jacobson: Do you remember Mrs. Thiessen on the witness stand? A. Yes.

Q. She said substantially this: That you said that you were some day going back to Germany and that she said if you do that they will take your money away? A. Yes.

Q. To which you replied, "Germany could do worse than take my money." Do you remember that? A. Yes, I remember that.

Q. Now, you explained to her—did you say that? "Germany could do worse than take my money"?

A. Yes.

Q. Did you add anything to that statement?

A. Yes.

Q. In speaking to her?

(Testimony of Friedrich Walter Bergmann.)

A. That they also could put me in prison because I evaded military service. [536]

Q. That is what you meant when you said, "Germany could do worse than take my money"?

A. Yes, sir.

Q. Do you remember Alec Posey testifying?

A. Yes.

Q. One of the statements he made was, "Hitler is all right. He is more capable of running the government than the way our government functions at this time."

Did you say that? A. Yes, I did.

Q. Did you say anything about the efficiency of a dictatorship to him?

A. I said to him because I believe and I think many Americans have been of the same opinion——

Q. Just a minute. Just what you said to Mr. Posey.

A. What I said was this: I said, "Mr. Posey, dictatorship has more efficient government and laws than a democracy but I am willing to pay the price for a democracy."

Q. Now then, Mr. Bergmann——

Mr. Dean: Excuse me just a moment. I think Mr. Bergmann was going to complete a sentence here and was interrupted, which, I think, was in response to your question. I am going to ask the reporter to read it and ask that Mr. Bergmann finish the sentence, your Honor.

Mr. Jacobson: What sentence is that?

Mr. Dean: It was just prior to your last question. [537]

(Testimony of Friedrich Walter Bergmann.)

Mr. Jacobson: All right.

(The record in question was read by the reporter.)

Mr. Dean: I ask that Mr. Bergmann finish that sentence.

The Court: Were you intending to add something to that or not? We don't know your thoughts.

The Witness: I told Mr. Posey when we talked about the difference in governments, that I believed a dictatorship is more efficient in regard to laws and organization than a democracy but I am willing to pay the price.

The Court: I see; you have already told us that.

The Witness: That is really what I meant.

The Court: All right.

Q. By Mr. Jacobson: Mr. Posey stated that you said to him, "If Hitler would come over here he would show us how to run the government."

Did you say that to Mr. Posey?

A. I positively did not say that.

Q. Did you tell Mr. Posey that you would return to Germany when the war was over and live like a white man?

A. I never said that, but I know for sure Mr. Posey asked me if I still had a father and mother and I said Yes, and I said, "That is what I am going to do after the war is over, go see my mother."

Q. Do you remember Mr. Coleman being on the stand? A. Yes.

Q. Do you remember he testified that when he was talking [538] to you one day you said to him,

(Testimony of Friedrich Walter Bergmann.)

"This God damn religion will have to go"? Do you remember him saying that?

A. That is untrue.

Q. You did not say that?

A. I never have said it.

Q. Now, when Mr. Vern Graham, the police officer, was on the stand he mentioned a conversation after you were sued. That was in July sometime of this year. Do you remember that?

A. Yes, I remember. July, yes.

Q. Did Mr. Graham come to see you after you were sued? A. Yes, he came to my place.

Q. When was that?

A. That was the beginning of August—the middle of August, the 10th of August, I would say, the 10th or 15th of August, and another time at the beginning of September, the early part of September.

Q. Was there any business transaction discussed in the conversation?

A. Yes, there was. He came to me and said, "Walter, I notice you look a little worried."

I said, "Who wouldn't be in these days when you are accused wrongly?"

He said, "Well, listen, Tarzan—" he called me by my nickname, put his two hands on top of my shoulders and said, "Now, be a man and forget the trouble and fight like you [539] should fight."

He said, "I came this morning to see you about something private, Walter." And so he said he would like to have a loan of $500 which he would secure to me by a note payable in either 60 days or

(Testimony of Friedrich Walter Bergmann.)

90 days, which ever way I wanted it, with 6 per cent interest. So I said to him, "What did you do with your $6000? You sold your property and your house?"

He said, "Yes, but I invested it in something else and I can't get it out of that. I just want a temporary loan. Will you do me that favor?"

I said, "My friend, I am sorry but in these troublesome time I do not feel like loaning my money out."

"Well," he said, "You are not sore, are you?"

I said, "Why should I be sore?" That is all I told him.

Q. Was that request for a loan repeated in the September conversation?

A. In September he came again to see me and he talked how I felt first about everything and whether I thought I would win and other witnesses that I had. I did not give him the names of any other witnesses but he said, "Well, if I can be of any use to you, I will be glad maybe to appear for you." Then he said, "I will tell you, Walter, this old question that came up before, I want to ask you once more, could you do it for 30 days? I will sign a note for $500 and I would be glad to pay you back in 30 days."

Q. Well, did you lend him the money? [540]

A. I did not lend him the money.

Q. Now, he testified that some time before this trial started—I think it was a month or two ago——

A. Yes.

(Testimony of Friedrich Walter Bergmann.)

Q. ——that you came to him and said, "Please forget everything I have told you except that I wanted to see my mother after the war."

Did you ask him to say that?

A. Never one word.

Mr. Jacobson: That is all.

Cross Examination

By Mr. Dean:

Q. Mr. Bergmann, during this cross examination in order to expedite matters, it may be that I will ask you to answer certain questions yes or no.

A. All right.

Q. And I want you to know if you feel that is not an adequate answer that I would like to have you ask the Court to elaborate upon it.

A. All right.

Q. I am doing it solely because I think it may save time.

With reference to your collection of specimens—— A. Yes.

Q. ——I assume you consider them very valuable. Is that right? [541]

A. You cannot say "very valuable."

Q. At least they are valuable, at any rate?

A. They are valuable, but that means nothing if you don't state the figure, of course.

Q. Now, you made your last trip in 1934 to the South Sea Islands?

A. Yes, French Oceania and the British Cook Islands.

(Testimony of Friedrich Walter Bergmann.)

Q. Was it your intention at that time to leave by gift this collection to any public institution?

A. Exactly. That was my intention, that is, not directly as a bequeath. I figured first they might purchase part of the collection. And then later on when I realized the courtesy shown and the love of my country—I had succeeded in real estate and oil matters—I made a bequeath in my will every second of January since 1937, not before.

Q. Would you mind telling us what your disposition was in the will, Mr. Bergmann?

A. My holographic will? I have a copy of the will.

Q. With respect to the specimens, that is all.

A. Regarding just the specimens?

Q. That is right.

A. I made a will to the museum in case I should die—that is, after my death now—that the collection will be donated to the Los Angeles County Museum. But also there is a clause in that will that should the City of Long Beach purchase property down around the City Hall—what we call, [542] oh, it is a certain block there——

Q. That you would leave it with the City of Long Beach?

A. Yes, within ten years, a stated time, I would give them to the City of Long Beach. However, if they did not have a museum—I mean the ground purchased for that purpose, for a museum, then it shall be donated back again to the Los Angeles County Museum.

(Testimony of Friedrich Walter Bergmann.)

Q. I think you have answered my question, Mr. Bergmann. If you want to elaborate later on, you ask the Court for permission to do it.

When did you draw up that holographic will? Do you recall?

A. Every second day of every year since 1937.

Q. The first time was in 1937?

A. '37, '38, '39, '40, '41, and then this time in '42.

Q. I see.

You have stated, and other witnesses have stated, I believe, that it has been your intention to leave other property, without going into detail, to the City of Long Beach?

A. Exactly, to the YMCA and also to the Salvation Army.

Q. I see; thank you.

Mr. Bergmann, I show you what purports to be a letter addressed to Mr. Roland J. McKinney, Director in Charge of the Los Angeles Museum.

A. Yes, sir. [543]

Q. The signature at the end of this letter is your signature, is it?

A. Yes. I have a copy of this letter.

Mr. Dean: I will offer this for identification at this time, your Honor.

The Clerk: Government's Exhibit 4 for identification.

(The document referred to was marked as Government's Exhibit No. 4 for identification.)

(Testimony of Friedrich Walter Bergmann.)

Q. By Mr. Dean: Now, Mr. Bergmann, with respect to your citizenship papers and your application—— A. Yes.

Q. ——some time prior to 1937 you knew, of course, that the acquisition of those papers would be of assistance to you in the conduct of your various business activities, did you not?

A. That is what papers do you refer to?

Q. Both papers, the preliminary and the final.

A. Yes.

Q. In other words, you knew at the time you obtained your final citizenship papers——

A. In 1937 that was.

Q. ——that they would be of assistance to you in the conduct of your various business activities. Isn't that correct?

A. Not only business activities. You refer strictly to business matters? You do not mention at this time about my [544] liking for the country and for the people?

Q. Just a moment. I think you have answered my question. I didn't ask you if that was the only reason, but whether or not you knew at that time that they would assist you in the conduct of your business activities.

A. I have a civic minded intentions, too, like the museum. Either they were on a business proposition like I have made while I was alive——

Q. Well, I think you have answered my question, Mr. Bergmann.

Now, as a matter of fact, during your last trip

(Testimony of Friedrich Walter Bergmann.)
in 1934 to the South Sea Islands you found that persons who were American citizens received many more courtesies in the Islands than those who were German citizens; isn't that right?

A. No, not only American citizens. There were English people that received just as many courtesies, but I did not get quite the courteous attention because I happen to come from Germany originally.

Q. You knew the acquisition of citizenship papers, should you ever return to the South Seas, would assist you in making these archeological and ethnological explorations? A. Not wholly.

Q. In part?

A. In part. I went down to the South Seas more for pleasure. I didn't go from a business standpoint. It was on account of fate or circumstances that I found those things. [545]

Q. I think you have answered my question, Mr. Bergmann.

Now, you heard Mr. Williams of the Bank of America—not Mr. Williams, but Mr. Geiselman, whom you called as a witness in your defense, testify that you told him that you had had difficulty down there in 1934 with the officials of the island because of the fact that you were a German citizen. Isn't that correct?

A. To a certain extent, not only on account of the German nationality, but because you are there as a stranger, whatever country you come from, either as an Englishman or as an American. You

(Testimony of Friedrich Walter Bergmann.)

find art *effects* and specimens of pre-historic times. Those are things that go to their own museum and there is a jealousness there whether you are American or English or any other nationality. It wouldn't make much difference. The feeling is there. They have a museum and they hate to have strangers who just come there for six months or a year take out those things, take them away to other parts of the world.

Q. But you don't recall then telling Mr. Geiselman that your work was made more difficult down there because you were a German citizen rather than an American citizen, as distinguished from a person of German extraction, German blood?

A. I cannot remember the conversation I had about this point.

Q. I think you have answered my question. Thank you.

Now, during the course of the direct examination you [546] testified as to certain negotiations with Mr. Graham of the Long Beach police department? A. Yes.

Q. And if I am not mistaken, Mr. Bergmann, you said Mr. Graham approached you after the filing of this action with respect to making a certain loan. Is that right?

A. Yes. It was about August—between August 10th and 15th, and the second time was about the beginning of September.

Q. You are reasonably certain that it wasn't before August of 1942?

(Testimony of Friedrich Walter Bergmann.)

A. I am sure; indeed I am.

Q. And, of course, Mr. Graham did not ask to borrow money before that time from you?

A. He has consulted me many times about investing this money.

Q. But not to borrow money?

A. But not to borrow money. That is what I tell you.

Q. Thank you.

You didn't know, then, Mr. Bergmann, that Mr. Graham had signed a statement and had given it to the FBI in April of 1937——

Mr. Howser: May it please the Court, that assumes a fact not in evidence and we object to it.

The Witness: What was your question.

Mr. Dean: Strike the question and I will start over. [547]

Q. You didn't know then at that time that Mr. Graham had signed a statement containing the facts which he testified to here and given it to the FBI in April of 1942? A. I did not.

Q. Four months prior to the time he tried to obtain the loan from you? A. I did not.

Q. Now, did you have any discussion with Mr. Graham in October of 1941, or at any other time concerning how you felt about the acquisition of your citizenship papers?

A. With Mr. Graham?

Q. Yes.

A. I never have talked to him about my citizenship papers, how I felt, never have.

(Testimony of Friedrich Walter Bergmann.)

Q. Favorably or unfavorably?

A. I told him once—pardon me, please. You say Mr. Graham?

Q. Mr. Graham.

A. Yes. He knew that I was an American citizen.

Q. Just a moment. Did you have any conversation with him about it, about your citizenship papers at any time? A. I do not remember.

Q. Then it isn't a fact that in October of 1941 you told Mr. Graham, "I have got my citizenship papers because it is good business and necessary for me to carry on my work." You don't recall saying that? [548]

A. I never have made a statement like that, never.

Q. Then I take it also, Mr. Bergmann, that in August of 1942 you did not tell Mr. Graham when he asked you if you were worried about these cancellation proceedings that had been instituted, "I don't give a damn if they do or if they don't. Walter has been wise enough to send enough securities to Germany to take care of Walter as long as he lives."

Did you ever make that statement?

A. I never made that statement.

Q. Now, with respect to Mr. Beck, the solicitor for the YMCA, who visited your home, you stated, I believe—and you correct me if I am wrong, Mr. Bergmann—on direct examination that your preliminary conversation with Mr. Beck concerned a

(Testimony of Friedrich Walter Bergmann.)

union of the British Empire with the United States. Is that correct?

A. Part of the talk about international politics included the union of the English people and the American people which he commenced, because he was from Denmark. He was born in Denmark.

Q. I think you told us that, Mr. Bergmann.

A. All right.

Q. The conversation lasted a considerable length of time did it?

A. I would say about 10 minutes, 15 minutes.

Q. No longer than that? [549]

A. I am satisfied.

Q. Then you don't recall having any discussion with Mr. Graham concerning the lend lease program?

A. Mr. Graham? Mr. Beck, you mean?

Q. I meant to say Mr. Beck. I am sorry.

A. No, I never talked about the lend lease, so far as I remember, at that time because there was Mr. Beck and Mr. Hoffman and whoever the other two parties are.

Q. Then I take it you didn't discuss the shipment of supplies to Great Britain by the United States on that occasion with Mr. Beck?

A. We might have talked about many things. In 10 or 15 minutes we might have talked about the lend lease. It could have been possible but they came there, of course, for another reason.

Q. Yes, I understand, but you were fairly cer-

(Testimony of Friedrich Walter Bergmann.)

tain yesterday, Mr. Bergmann, that you discussed a common union of the English speaking people?

A. We talked about the English nations in general. We talked about a union of the English nations.

Q. Yes, I understand that. I am not asking you that now. But you are certain, are you not, that you talked to Mr. Beck about a possible union of the British Empire with the United States?

A. I know positively because I am for that myself for the English talking people. We agreed to that okay. [550]

Q. But you are not certain as to whether you talked about lend lease or the shipment of supplies to Great Britain?

A. I am not quite certain, no.

Q. Isn't it a fact, Mr. Bergmann——

A. Because one thing is different from the other. I didn't want to have aristocracy included in our American democracy. That was the main point in the union of the English people.

Q. In other words, isn't it a fact that you made the following statement which I am going to quote to you after a discussion of the lend lease program and the shipment of supplies to Great Britain by the United States: "I am ashamed of being an American citizen and feel like having my citizenship papers canceled"?

A. I never have said that. I have said I would be glad to see my United States citizenship papers

(Testimony of Friedrich Walter Bergmann.)

torn to pieces if I should ever accept Mr. Smith as Baron Smith on Main Street.

The Court: Who was contemplating that?

The Witness: We talked about it.

The Court: Who in the United States has publicly advocated any such thing?

The Witness: Well, we talked about union and, of course, naturally, the British Empire has aristocracy.

The Court: Who has advocated that? Your counsel has brought in a book, Streit's Union Now. Did you ever read it? [551]

The Witness: No.

The Court: He is the greatest advocate of union. Did you ever find anything there about unions to give up your own government and to kowtow to British aristocracy? Who brought up the subject? Who has ever advocated that since the Tories before the Revolutionary War? Who has ever advocated any such union?

The Witness: We wanted our union here in our country. That is where we got our United States. It started in the 18th Century.

The Court: What made you talk about aristocracy? Who advocated that? Did Mr. Beck say he was in favor of union with the British Isles?

The Witness: He was in favor as the British are today with all their people in the different classes they have, and I didn't believe in that either. I believe we should have a democracy.

The Court: Haven't you got all mixed up about

(Testimony of Friedrich Walter Bergmann.)

the titles? Isn't Canada a part of the British Empire?

The Witness: It is.

The Court: It is a part of the Commonwealth of nations, as they call it.

The Witness: That is true.

The Court: Is there any titled aristocracy in Canada?

The Witness: No.

The Court: Who advocated bringing titled aristocracy [552] to the United States?

The Witness: It was Mr. Beck, if I remember right.

The Court: He brought it up?

The Witness: We were talking general and I think it was him who brought up about titled persons and I was not of that opinion.

The Court: He was in favor of titled persons. Is that the idea?

The Witness: He figured the way the British classes are today with their different classes, what they would be acceptable to him.

The Court: Don't you know the Constitution of the United States would have to be changed and that that could only be done by having a constitutional amendment submitted by the Congress of the United States and adopted by three-fourths of the States?

The Witness: I understand that, but I understood him in that regard that he accepted them as

(Testimony of Friedrich Walter Bergmann.)

they are right today, titled as they are in England.

The Court: You wanted to be sure you wouldn't have to address anybody other than "Mister", is that the idea? You wanted to make sure you would never be compelled to call a man "My Lord", but just call him "Mister"?

The Witness: Not always. If a man earns a professional title, that is different; but in the ordinary way, I would hate to call a man "Baron" just because he was born in that [553] class. If he has a profession, if he is a doctor, then that is a title that he earns and he could be called accordingly.

The Court: All right.

Q. By Mr. Dean: Now, Mr. Bergmann, you discussed, of course, the lend lease program with a good many people, did you not?

A. I might have talked about it with a few people.

Q. And you heard Mr. Huggins testify on the stand that had you known about lend lease at the time you took your citizenship papers out that you would not have taken them out, and that that conversation occurred in 1941?

A. I never have said that to Mr. Huggins.

Q. It is possible that you might have talked about lend lease with Mr. Huggins though?

A. I have talked to him in this regard: I believe these British dominions, Bermuda, Jamaica, the Bahama Islands all should belong to the United

(Testimony of Friedrich Walter Bergmann.)

States. I got a letter from Mr. Reynolds which I have given to my lawyers. My lawyers have the envelope here and you can ascertain there that it says we should secure those places as security for our country. That is, we would loan out money—it is really lend lease, I guess—but we should get security for that money and I believe these colonies should belong to this country because it is on this continent.

Q. Now, you have stated, Mr. Bergmann, if I am not [554] mistaken, and witnesses have appeared in your behalf and have stated that at certain times, at least, you admired the program of Adolf Hitler for building up the health of the German youth. Is that correct?

A. Yes, indeed, that is correct.

Q. Now, you heard Mr. Geiselman, a witness in your behalf, testify here yesterday, I believe, that he had a conversation with you early in 1940.

A. Yes.

Q. And at that time you expressed admiration for the health program for the German youth sponsored by Adolf Hitler.

Did you have such a conversation in 1940 with Mr. Geiselman on that subject?

A. In 1940, it could have been.

Q. And, of course——

A. It is the Youth movement in Germany, I believe, that was a good point, but not at that time, because afterwards I changed my mind.

Q. Just a minute. You knew, of course, in the

(Testimony of Friedrich Walter Bergmann.)

early part of 1940 that Germany was at war with Great Britain, did you not?

A. Yes, but I also disliked Hitler at that time. I sure did.

Q. And you knew, of course, that at that time Germany had marched into Poland and that thousands of German youths [555] were being used in that campaign? A. Yes.

Q. And that nevertheless, despite that fact, in 1940 you admired the Hitler program for building up the health of the German youth. Is that right?

A. The method of the program was all right, but then he took them for military purposes. What he did good with the left hand, he destroyed with the right hand. I did not consider this to be entirely correct because I have changed my mind. I changed my mind back in 1937 or '38 about Hitler's method when I realized what he was doing. He started good with his left hand, what he did there with the youth, like the Boy Scouts, he destroyed with the right hand because he made soldiers of the boys.

Q. Yes; I think you expressed that opinion before.

Now, with respect to Adolf Hitler, Mr. Bergmann, do you deny at this time that you told Mr. Graham, the member of the police force in Long Beach, that "Hitler is the greatest living human on the face of the earth," in October of 1941? Do you deny you said that? A. I do deny it.

(Testimony of Friedrich Walter Bergmann.)

Q. Have you ever had any conversation concerning Adolf Hitler with Mr. Graham?

A. I might have, yes.

Q. Perhaps on numerous occasions?

A. But he should have known—— [556]

Q. Just a moment. Perhaps on many occasions?

A. On many occasions, yes, I could say that.

Q. You don't recall the specific words you said on all of these occasions, do you?

A. I can mention the same thing, because the same point was always expressed. I acknowledged the youth movement in Germany was good for the boys and girls, to keep away from liquor and tobacco and otherwise, but after they received good bodies, they were then taken into the military machine.

Q. You don't recall telling Mr. Graham at any time then that Adolf Hitler was a genius?

A. Not a genius. I never used that word to anyone. I never have used that word.

Q. Now, you heard Mr. Williams of the Bank of America testify here, did you not, Mr. Bergmann? A. Yes.

Q. And you recall he said that you said that Hitler was a kind, Christian gentleman. Did you tell Mr. Williams that?

A. I did not tell him that.

Q. Did you have a conversation concerning Adolf Hitler with him?

A. I said to him I think that Hitler thinks

(Testimony of Friedrich Walter Bergmann.)
himself he is a Christian man. I didn't use the word "kind" because he is a fanatic.

Q. I think you have answered my question. [557]

A. Okay.

Q. Now, you recall that Mrs. Kinder took the stand yesterday or the day before? A. Yes.

Q. And that she said that you had told her that you wanted to return to Germany and help Hitler win the war. Now, do you deny that you made that statement to Mrs. Kinder?

A. I do. I deny that. It is not true.

Q. Now, you also saw Mr. Posey take the stand and heard him state that you during a three or four month period called yourself "Hitler, Jr.," and sometimes "Hitler the 2nd."

Now, did you ever use that expression, Mr. Bergmann? A. I never have.

Q. Did you ever call anyone else "Hitler, Jr." or "Hitler the 2nd," to Mr. Posey?

A. I never have. I never have used these expressions.

Q. With reference to yourself or anyone else?

A. I never have said that in reference to myself, I can assure you.

Q. Now, with reference to Mr. Shields and Mr. Williams and Mr. Haschkae, you heard them testify, did you not, Mr. Bergmann? A. Yes.

Q. Who said, I believe, that at the conclusion of their conversations with you, you said, "Heil Hitler." Do you [558] deny that you used that expression?

(Testimony of Friedrich Walter Bergmann.)

A. I used the expression "Heil Hitler" just in a joking way like they would say "Hello, Dutchman," or "Hello, Tarzan," in a joking way.

Q. As you explained before?

A. Yes, as I explained yesterday.

Q. Now, you heard Mr. Shields testify that when you said "Heil Hitler" that you snapped to attention, clicked your heels and had a very sober expression on your face?"

A. I never have done that. You know what I said yesterday, and that is not true.

Q. That is not true? A. No.

Q. Do you recall making a statement to anybody that "if Hitler needs what I have got, I will give him everything I own"? Do you recall having made that statement to anybody?

A. I never have.

Q. Now, Mr. Bergmann, you have stated on direct examination this morning that you admired, if I am not mistaken—you correct me if I am wrong—that you admired the efficiency of the German government and Adolf Hitler at one time or another. Is that correct?

A. I did not say "German government." I said a dictatorship in comparison to democracy, they are more efficient in regard to their methods, in their laws; that is more [559] efficient in that spirit, more economical from that standpoint, I would say, but I am willing to pay the price for a democracy because here we have freedom of

(Testimony of Friedrich Walter Bergmann.)
action that we haven't got in—like it is in a dictatorship.

Q. You have expressed that before, haven't you?

A. Yes.

Q. Now, I am not asking you—and I want you to understand this, Mr. Bergmann, whether or not you at any time have wanted Adolf Hitler and the leaders of the German Reich to set up a dictatorship in the United States. I am not asking you that. A. Never. All right.

Q. What I am asking you is this: Have you, since 1934 ever wanted the people of the United States to set up a dictatorship?

A. Never, never.

Q. Even though——

A. Because I have strong republican ideas.

Q. And you have always felt that way?

A. I have always felt that way, yes.

Q. What price do you think we pay, Mr. Bergmann, for having a democracy here?

A. We have liberty of action in speech and assembly.

Q. Yes, but what price do we have to pay for having it? A. The price?

Q. Sacrifice in efficiency? What price do we pay? [560]

A. Because everyone leads his own life in the way he thinks as an individual person.

Q. Is that what you call paying a price?

A. Not a price, no, but then in case of duty we know we shall vote and we shall give to our

(Testimony of Friedrich Walter Bergmann.)

institutions, charities, and we shall fight for our country, shed our blood in case we are attacked, which means war. I think that is a price that any patriotic citizen should show in his allegiance to the flag of his country.

Q. Now, with respect to the lend lease program, Mr. Bergmann, it is true of course, that, like a good many patriotic American citizens, you opposed that program. Isn't that right?

A. Yes, I did. I believe we should have security for it, just like Mr. Wheeler and Mr. Reynolds expressed in government printed pamphlets. I have the envelopes here of some, and I suppose the other ones are in the City Hall. I believe in acquiring the British colonies in securing our loans.

Q. Well, isn't the fact, Mr. Bergmann, that you opposed lend lease because the lend lease program was going to interfere with the conduct of the war effort by the German government?

A. Not a bit. I never have. I never have interfered. I do not know what you mean by that word "interfere".

Q. Hamper. [561]

A. I understand, but not in this way. I believe lend lease would be a good thing if we got security for it, because I believe we should do away with the dictators of Europe.

Q. But you knew, of course, at that time when you were opposed to lend lease that it was going to make the conduct of the war by Germany more difficult?

(Testimony of Friedrich Walter Bergmann.)

A. It doesn't make any difference. I am through with Germany. I haven't been in Germany for 30 years. I have nobody there except my mother. What interest should I have in Germany? Wouldn't I have been a member of the German Bund if I had any interest in Germany?

The Court: That is making a speech, not answering counsel's question.

Q. By Mr. Dean: You recall that you told Mr. Casey and Mr. Gibbons in April, I think it was, 1942, or May perhaps—— A. Yes.

Q. ——that a representative of the German government or a person who represented himself to be a representative of the German government, or of an agency of the German government, had approached you in 1937 and had asked you to make a record of the ships that entered and left Los Angeles Harbor. Now, you recall making such a statement to Mr. Casey, do you not?

A. I never have made a statement like that. I made the statement I said yesterday, that a man six feet or six feet, [562] two called on me in 1937 and that man——

The Court: Let's go over that again. These matters were gone into so fully yesterday. What he is asking you now can be answered yes or no because you have already explained the other.

The Witness: It is not a man from the German government. He only mentioned his name. That was all he did.

Q. By Mr. Dean: Now, Mr. Bergmann, it is

(Testimony of Friedrich Walter Bergmann.)

true, as a matter of fact, when that man came—that is that you told Mr. Casey that when he came that he seemed to know all about your family in Germany?

A. None whatever. He didn't know anything about Germany. He said certain German interests had high regard for me in Los Angeles. I knew right away he was lying.

Q. You have answered my question.

A. Okay.

Q. Now, it is a fact, is it not, that you never reported that incident to any agency of the United States government?

A. Because I did not know——

Q. Just a moment. Just answer the question yes or no.

A. I can't answer that question yes or no.

The Court: Just a minute. You may answer and then give your reason. You either did or you didn't, Mr. Bergmann. Then you can give your reason why you didn't report it if you didn't. [563]

The Witness: No, because the reason I didn't is on account of the fact this man only mentioned his name—and I have forgotten it, I am sorry to say—and when I realized that he said German interests in Los Angeles had high regard for me I knew he was lying. I had nobody there. [564]

The Court: Just a minute. That isn't a part of the answer or explanation. You have given your reasons.

The Witness: I did not know if this man was

(Testimony of Friedrich Walter Bergmann.)

a man working for the German government or not, or whether he was a man who wanted to approach me from a smuggling standpoint.

Q. By Mr. Dean: In other words, you didn't know whether or not he was an agent of the German government? A. What?

Q. You didn't know whether he was an agent of the German government or not, did you?

A. I had never met the man before. How could I know? What could I expect.

Q. Just answer my question now. I am just asking what your state of mind was in 1937. You were not certain when that man came to you—you didn't know positively he was not an agent of the German government?

A. If I was positive, I would have reported it.

Q. But you were not sure he was not. Isn't that correct?

A. I can't understand that question. He was not what?

Q. You were not positive in 1937 that that man was not an agent of the German government, were you?

A. Well, I had never met the man before so I don't know what he represented. I know——

Q. I think you have answered my question, Mr. Bergmann.

The Court: I want to come back to this statement here [565] for a moment in view of the witness' statement that he didn't make a certain declaration occurring here.

(Testimony of Friedrich Walter Bergmann.)

I think a while ago you didn't make this statement: "It is not correct to be sent outside the borders of the United States to fight under a foreign flag."

You say you didn't make that statement?

The Witness: That is incomplete.

The Court: You read this very carefully and had a change made. Then you notice at the top of each page after the corrections were made somebody wrote the word "approved" and then marked "for corrections" and you initialed that.

The Witness: Yes.

The Court: How does it happen you didn't have them strike that out?

The Witness: Of course, if you were there and got so many questions asked of you from one-thirty to six-thirty—well, it is just a matter of something you overlook.

The Court: Something you overlook. All right; you overlooked that. Let me ask you another question now.

The Witness: I would like to have seen the pencilled copy of it.

The Court: That is all right. Just forget that for a while. You will see it in due time.

Now, on Page 5 you made many changes. We will eliminate the changes which appear on the bottom. There were a lot of things said about Germany. You said, "It is not correct to [566] be sent outside the borders of the United States to fight under a foreign flag. I want to see the end

(Testimony of Friedrich Walter Bergmann.)
of the Hitler regime in Germany. I want to see Hitler licked but not the German people. I have a heart for the German people. There must always be a Germany. A country of eighty million people has a right to have land enough to sustain them. The colonies she once possessed were nothing but barren and desert land with the possible exception of German East Africa."

That paragraph, which is practically the entire half page, you read and made absolutely no changes at all.

The Witness: Yes.

The Court: Now, you made those statements the way they were made?

The Witness: Yes.

The Court: Then after that you began to make changes. Where it said, "Germany can never be split up," you changed to "Germany should never be split up." And then you asked to be added, "It will lead only to political unrest and war in Europe."

The Witness: Yes.

The Court: And so forth, and made other changes?

The Witness: Yes.

The Court: All right.

Now, if you say you don't believe in aggression, if you say that the white people should leave the east alone or the west alone and not colonize, how did you expect Germany to [567] be supplied with this additional Lebensraum of which you speak there?

(Testimony of Friedrich Walter Bergmann.)

The Witness: Like I have been with my brother, we had to leave Germany in order to be able to find security because it is overcrowded.

The Court: How do you expect Germany, not having any colonies, would get them except by con*test*?

The Witness: It could have been, of course, by peaceful annexation. We know Austro Hungary—why couldn't you have these different states on their own wishes through proper processes of election and decision by the majority of the people annex.

The Court: At the time you gave this—this was May 1942—you knew very well how Germany intended to get those additional colonies or room for expansion for its people, and that is by conquest and overrunning the people around them. You were still defending the right of the German people to have more room to live in.

The Witness: But not by aggression.

The Court: How were they to get them? You say they should have them. How would they get them?

The Witness: Well——

The Court: Except in the manner they did and according to their own ideas? I am trying to find out your defense of Germany's right to colonize.

The Witness: I should not have used the word "colonies," [568] I should have said "states which are closest to her border, that they by peaceful annexation be incorporated into Germany."

(Testimony of Friedrich Walter Bergmann.)

The Court: When did any nation adjoining Germany ever want to be annexed to Germany except once in the early stages after the war when there was merely a discussion of Anschluss with Austria?

The Witness: Yes.

The Court: When did any other nation before this war want to be annexed except as a result of agitation carried on by Germany to take people who had never belonged to the German Empire like the Sudetans into the German Reich? We are not talking about the past. We are talking about what you have in mind in 1942. You were still defending Germany's right to have more room for her people to develop in.

The Witness: But not by aggressive means.

The Court: At whose expense were they to get the land? Who is going to give it to them? Were we going to give them some of this land or was France or was England?

The Witness: It could have been with peaceful means, say Luxemburg, Alsace Lorraine—many people that talk the same language—Flemish. I would think the more they are split up the more trouble and political intrigue would take place.

The Court: What country in Europe is subject to colonization now when the average density of population ranges from 200 per mile to as many as 600 per mile in [569] Belgium? In what country could Germany find room in Europe to expand by colonization?

(Testimony of Friedrich Walter Bergmann.)

The Witness: It would be limited only to Austria, I think.

The Court: What country in Europe prevented any German from moving in and becoming a part of the nation and doing the things that you did in the United States? Was there any that stood in the way of Germans?

The Witness: (Pause.)

The Court: Before the war? Between the last war and this war Germans were moving freely all over the face of the earth subject to the usual restrictions against immigration which some countries had. The Germans were moving freely across the continent of Europe, could practice their business or profession anywhere, couldn't they?

The Witness: That is right.

The Court: I am just trying to find out what you had in your mind there in view of the fact that you condemn colonization, that you want the white man to leave the Orient alone. How do you reconcile that with your plea for poor Germany because she didn't get colonies that were any good? You do it in the same conversation and you do it in May of 1942, six months after we are at war with Germany, and years after Germany had indicated that the only way she intended to get room for her people, as she calls them, is by aggressive methods and by subjugating the other people to the "master [570] race".

The Witness: I do not say they are a master race.

(Testimony of Friedrich Walter Bergmann.)

The Court: I know that, but that is what Germany indicated in this war.

In May, 1942, you knew very well that she caused Japan to attack us. She had declared war on us. We were at war, yet you were still defending her "poverty" as you called it, you were still saying eighty million people have the right to have enough land and I asked you where do you think they would get the land and how could it be gotten by peaceful methods and what did you have in mind when you said that?

The Witness: I meant adjoining colonies—I shouldn't say "colonies"—but like Austria.

The Court: She already had Austria. She took it by murder and by assassination. She didn't bother with a war.

The Witness: I meant through peaceful methods.

The Court: She took it by murder and then walked in and took the rest. She got that. What else could she take?

The Witness: But not by those methods.

The Court: You disapproved of the way she did it?

The Witness: I certainly do in the strongest words.

The Court: You do?

The Witness: Yes.

The Court: What other colonies could she get?

The Witness: Not outside of Europe.

The Court: All right; let's see. Outside of Eu-

(Testimony of Friedrich Walter Bergmann.)

rope. [571] If you don't justify obtaining any colonies by England or the United States or any other nation, the Netherlands in the East Indies, how do you justify it on the grounds of necessity for Germany? "East is east and west is west and never the twain shall meet." If the east is to have what the Japanese call the new order in eastern Asia for the eastern people only, why isn't that good policy for Germany too? Why do you defend German's rights to colonize in May of this year?

The Witness: Of course, we talked more about Germany at that time because they asked me questions more about Germany. I didn't have a chance to talk much about the other parts of the world but the idea was this: The country was overpopulated.

The Court: And you believed it had a right to colonize?

The Witness: In a peaceful way, yes.

The Court: And you still believed that in 1942; that they were crowded and for that reason they should colonize.

You also said that after the war it will be the duty of every American citizen to help Germany. You didn't say "the German people".

The Witness: I meant the German people.

The Court: You used the word "Germany".

The Witness: Of course, I did not go into technicalities, but I wrote this in the spirit at that time as I thought when they asked me these questions. I meant the people. I don't care for the dictator-

(Testimony of Friedrich Walter Bergmann.)

ship of Germany. I hate the dictatorship [572] of Germany or Italy, but the people are not to blame for that. Through fate or circumstances they have to be doing what the dictators tell them to do because it is a matter of either do that or there will be trouble. They have no chance to get their rights. The German people today, I think, pray to their Father in heaven to have Hitler die this minute. I would be satisfied about that.

The Court: I see. Well, all right. I still don't know. I presume we will have to let it stand at that.

The Witness: When the gentlemen came there at one-thirty and left at six or seven o'clock, you can not expect——

The Court: Well, the question is why did you defend Germany in 1942 when you knew very well that that was the very ideology that they expressed. That is what Hitler was telling everybody. He said, "We are a have not nation and France, Britain and the United States are the have nations and we want a part of the world." Why did you defend Germany when you knew very well that that has been the explanation of Germany's warlike activities; that they are a have not nation and they want to get a part of what the "haves" have. Knowing that you repeat the same thing and say, "Yes, they ought to have colonies because there are eighty million of them and they ought to have room to live in."

That is what I am asking you. How is that con-

(Testimony of Friedrich Walter Bergmann.)

sistent unless you actually approve of the philosophy of the present Germany which you say you don't. I am trying to find out how [573] this statement is consistent if you disapprove of the present philosophy that dominates Germany, because that is exactly their philosophy. I can give you from my shelf of English translations of Hitler's speeches where the identical complaint which you thought were valid even in 1942, the identical complaints were made.

The Witness: But by peaceful means, your Honor.

The Court: You didn't limit the means there.

The Witness: Well, of course——

The Court: But you knew very well that they didn't contemplate peaceful means because of the havoc they have wrought on the world. Look what they have done all over Europe, even to Denmark who didn't resist them at all. People are starving all over Europe. The only persons eating are the Germans in Europe. They have boasted about that. Goebbels has said that. He said, "No German will starve in Europe. The other people will starve."

I am just trying to find out how you could make a defense of this character in view of your denial that you approve of Hitler except in what he has done to the German youth. How could you defend their right to colonize even in May of this year and use the identical argument which they used, saying, "We were forced into this war. The inter-

(Testimony of Friedrich Walter Bergmann.)

national bankers got us into this war. We didn't want this war. We just wanted to live. We wanted to have more space to live in. Lebensraum." That is geopolitics. You see, I [574] happen to know German, so I know the phrases that they us in the original.

The Witness: I wish I had put in by "peaceful means" because that has been my idea, not by aggressive methods.

The Court: All right; let's take a short recess now, gentlemen.

(A short recess was taken.)

The Court: Go ahead, Mr. Dean.

Q. By Mr. Dean: Mr. Bergmann, of course, it is a fact you removed your collection from the County Museum in April of 1941? A. Yes.

Mr. Dean: At this time, your Honor, I understand counsel has no objection, so I offer this in evidence as Government's exhibit next in order.

The Court: It may be received.

The Clerk: Government's Exhibit No. 4 in evidence.

(The document referred to was received in evidence and marked Government's Exhibit No. 4.)

(Testimony of Friedrich Walter Bergmann.)

GOVERNMENT'S EXHIBIT No. 4

1225 Seaside Bl.
Long Beach
June 7th, 1939

Mr. Roland J. McKinney
Director in Charge
Los Angeles Museum

Gentleman,

The writer is the owner of the Hawaiian, Tahitian, Marquesan and British Cook Island art objects, which have been exhibited in the "African Room" in your Museum since 1932 for the education and enjoyment of your patrons and comprising in all 1450 antiquities, 20 imitations and reproductions, as well as 80 ethnological objects and 38 additional rare articles from British New Guinea and Solomon Islds. or in all 1590 artifacts.

This day I have decided to offer the 3 propositions to you with the cordial request to refer my liberal terms to the proper authorities who govern the interests of your institution and to inform me of their decision by August 1st next.

The Hawaiian Collection has been valued by Mr. Hettinger, an authority of Polynesian antiquities as $6750.00 in 1932, while Dr. W. A. Bryan, who about 20 years ago was connected with the Hawaiian Bishop Museum of Honolulu, estimated the same collection from $5500.00 to $6000.00 last Feby. 28th 1934

The French Oceania Collection including the 38

(Testimony of Friedrich Walter Bergmann.)
British Island artifacts were appraised in Papeete, Tahiti by Mons. Belanger of the Paris Museum for $5200.00-5500.00.

Dr. W. A. Bryan considered the material the most valuable diversified Polynesian Collection ever brought to the Museum, excepting Hawaiian Feather work, and I dare state with great pride, that I consider the large Hawaiian calabash exhibit inside the wall showcase, the largest one in the U.S.A. and second only to the Bishop Museum.

During the 5 years of 1928-1932 in the field, I collected these 1590 objects; about 70% were found by the undersigned in the open or in caves, 20% were obtained by purchases and 10% by exchanges.

I particularly lay stress upon the great difficulty and financial loss the writer had to experience with the French officials at Tahiti, who finally agreed to release my antiquities of French Oceania, including the Marquesas, Society Islands, Tubuai and Tuamotu Groups, provided that I donate ¼th of the total quantities to the Paris Museum or as an alterate pay an export custom charge of $968.15, which equalled 20% of the custom appraisal for the combined French antiquities.

I also can state, that since 1932 in Hawaii special permission is required from the Territorial officials to export to the mainland of U. S. A. or foreign destinations, any Polynesian articles older than 100 years.

These 3 propositions I will offer to the Museum:

1) The total valuation, as per the previous

(Testimony of Friedrich Walter Bergmann.)

itemized appraisals referred to in this letter is $11600.00 and I will donate to your Museum from said sum, a value of $4600.00 provided that the balance of $7000.00 is paid in Cash to me by Aug. 1st next.

2) I will donate a value of $4100.00 from the $11600.00, which leaves a balance of $7500.00 and due me in 10 yearly installments of $750.00 each with the proviso, that each year the Museum authorities (with my permission) may remove sufficient objects representing in value said yearly payment for $750.00 for exchange purposes of any kind of Museum material with private individuals or other institutions. This clause, I believe is advantageous, as I possess letters, dated March 12th 1934 from the Field Museum in Chicago and another letter, dated April 3rd 1934 from the Bishop Museum of Honolulu, which consider part purchases of my Polynesian antiquities.

3) I will donate $2975.00 from the $11600.00 total average valuation, which balance of $8625.00 is payable to me at rate of $575.00 yearly for 15 years, with the proviso, that the collection be kept by the Museum and that should I die during said period, any further payment automatically is voided and the whole collection is willed to the L. A. Museum.

As requested, I would feel greatly obliged to you, that a response is returned to me by next August

(Testimony of Friedrich Walter Bergmann.)

1st, as I contemplate to leave overseas at end of that month.

I remain, dear Sir,

Yours very respectfully,

FRITZ WALTER BERGMANN.

[Endorsed]: Filed 11/20/42.

Q. By Mr. Dean: Now, Mr. Bergmann, you recall that Mr. Graham was on the stand.

A. Yes.

Q. And stated he had a conversation with you after Pearl Harbor, after the United States became involved in the war, at least, the United States had entered the War——

A. Yes. [575]

Q. ——with respect to the sinking of the S.S. Repulse or H.M.S. Repulse and the Prince of Wales? A. Yes.

Q. You recall having a conversation with Mr. Graham about those two ships?

A. I don't recall such a conversation.

Q. Do you recall having a conversation with anybody about the sinking of those two battle ships? A. No, I have not.

Q. Then, of course, I take it it isn't true that you said after the sinking of those two ships that it was the best news you had ever heard?

A. No, I have not said that.

Q. Now, you have stated—I am not going to

(Testimony of Friedrich Walter Bergmann.)

go into this in detail—you stated on direct examination yesterday that you did not vote in 1940 and that the reason you didn't was because you were confused by the conflicting statements between the two candidates. Is that right?

A. Exactly. I heard so much about Willkie and Roosevelt——

Q. Well,I think you have told us that already, but you, of course, didn't vote in the 1938 congressional election, did you, Mr. Bergmann?

A. I did not. That is true.

Q. And you didn't vote in the 1942 congressional election? [576]

A. I have this time, the primary and also the last election, both in this year.

Q. Of course, that was subsequent to the filing of these cancellation proceedings, isn't that right?

A. That is true, but I felt this was a different thing because I felt we needed a change in our government because Mr. Olson——

Q. I don't think we need to go into that.

A. All right.

Q. Now, of course, you being a person of German extraction, Mr. Bergmann, realize the difference between a Nazi and a German. There is a difference, is there not? A. I should say.

Q. And you agree the term "Nazi" has a political significance, do you not?

A. I would think from an organization standpoint, yes, but the German people are still the German people. How many are Nazis, I couldn't say.

(Testimony of Friedrich Walter Bergmann.)

Q. You wouldn't say all the German people are not Nazis, would you?

A. Many are not, no.

Q. You said yesterday when you were explaining one of your remarks to one of the witnesses—I think it was Mrs. Kinder or perhaps some one else who testified—that you admit you said, "I am a Nazi," but you said it in a joking way. [577]

A. I didn't say that at all to Mrs. Kinder. I think you are mistaken.

Q. I said I wasn't sure of the name, but you did say yesterday that you said you were a Nazi but you said it in a joking way.

A. I said it to Mr. Huggins' mother.

The Court: He said he made that statement to Mr. Huggins' mother.

The Witness: Mrs. Duell.

The Court: And also admitted making the statement to other people but he said he made it as a gesture.

The Witness: Pardon me. I didn't say, "I am a Nazi." I didn't say it to other people. I said, "Heil, Hitler." I think there is a confusion, please.

The Court: That is perfectly all right.

The Witness: Because the only time I have ever said, "I am a Nazi" in a joking way was to Mrs. Duell. I thought Mrs. Duell was French. Her name was French and I thought she could talk French but she could not. I said jokingly, "I am

(Testimony of Friedrich Walter Bergmann.)

a Nazi," and smiled. There is no other person I have ever said that to.

The Court: Of course, you know where the word "Nazi" comes from.

The Witness: It is a nickname.

The Court: It is not a nickname but——

The Witness: And I said that in the conversation, it was [578] in a joking way.

The Court: I asked you if you knew where the two syllables come from.

The Witness: I don't.

The Court: Do you know the name of the Hitler party?

The Witness: Well, that is all I know; Nazi party.

The Court: Do you know what the name of the Hitler Party is called in Germany?

The Witness: The National Socialist Government.

The Court: The National Socialist Party of Germany, and the word "Nazi" is merely taken from Nationalsozialistische. The first two letters "na" from "National" and "zi".

The Witness: I have never been interested in going into that. All I read was "National Socialist Party."

The Court: You also know this: That Germans who left Germany before the time of the Nazis, and even Nazis in foreign countries do not use "Heil, Hitler" as a greeting but they use the old German expression.

(Testimony of Friedrich Walter Bergmann.)

The Witness: I do not know that because I never attended any German meetings or been a member of a club.

The Court: What would you say when you greet a person that speaks the German language?

The Witness: Wie Gehts, which means "How do you do." Auf Wiedersehn, which means "Until we meet again."

The Court: All right; and when you come in in the morning you would say, "Guten Morgen."

[579]

The Witness: Yes.

The Court: Or "Guten tag".

The Witness: Yes.

But like I said before, where you say, "Hello. Tarzan," or "Heil, Hitler"—in a joking way.

The Court: What I wanted to find out is this: If you knew that both the name and manner of greeting are not used by any one except to designate belonging to the party——

The Witness: I did not know that.

The Court: You did not know that?

The Witness: I did not.

The Court: All right.

Q. By Mr. Dean: Of course, you knew the term "Nazi" was only applied to those who were members of the Nazi Party?

A. I understand.

Q. And you understood that at the time you gave this expression?

(Testimony of Friedrich Walter Bergmann.)

A. But in a joking spirit because I never met that woman more than two or three minutes.

Q. Now, Mr. Bergmann, I call your attention to page 8 of the statement, the last sentence of the first paragraph on the page wherein you state, "The Jews should be given a country which they can call their own and they should then be protected from being attacked. The Holy Land should be returned to them." A. Yes, sir. [580]

Q. Will you tell us what you mean by that?

A. I mean this way: The British really have sold out the Jews and the Jews should be protected from aggression by other nations.

Q. Just a moment. I didn't mean to interrupt you, but by the term "Jews" who do you mean, Mr. Bergmann? A. The Hebrew people.

Q. All of the Hebrew people?

A. All of the Jewish people, yes, in general. Of course, we have no Jewish nationality. They are citizens of different countries. I understand that, but if they are citizens, that is a different thing. They are then obliged to say where they belong, in their own country. But those Jews, especially in Europe where they have so many mixed nationalities and really no country. Many a Jew, I think, feels sad indeed, when he can't say, "This is my land. Here is my flag." He might still be a Jew in religion and spirit but he hasn't got the benefit of saying that he can go back to a country and say, "This is the land of the Hebrew," like the English people can say, "This is the land of the English."

(Testimony of Friedrich Walter Bergmann.)

There is an exception. We are united, a mixed people from different nations in Europe, but I think —if, for instance, I were a Jew, my brother's wife were a Jew, my grandfather a Jew, after all I would feel it is right indeed for a Jew to express himself that way even if he is a citizen now,—that it would have been better in the past. Now, I am [581] saying if the Jews could have gotten together and had their own land and started their own laws and under their own flag they would be happier.

Q. You may continue if you feel you haven't given us an adequate explanation, but I understood you to say that it would have been better had it been done.

A. In the past had it been done, yes. There then would be a land, a land of the Hebrew like in the Bible. They would get their rights and get their country back.

Q. I see.

Now, you said this did not apply to citizens of other countries. At the time you wrote this, did you have any idea that there was a large number of Jews who were not citizens of other countries?

A. Yes, I think there are many of those. That is what I meant. You have many Jews today in parts of Europe, especially in the Balkan States, who are not really citizens. They are just like a flock.

Q. Did you mean this to apply only to the Balkan States?

A. Most of the Balkan States, because that is

(Testimony of Friedrich Walter Bergmann.)

where most of the Jews are in the world today. I think in Hungary, Rumania, Bulgaria, Czechoslovakia, Poland and parts of Russia. I think in population we have more Jews, especially in Russia and Poland, who are not true nationalities on account of the mixed——

Q. I think you have answered my question, Mr. Bergmann. [582] A. O. K.

Q. There are a lot of Jews in this country who are not citizens of the United States, isn't that right? A. Yes, sir.

Q. Do you intend this should be applied to them?

A. That is, if they did not apply for American citizenship papers; if they still would be like I was prior to 1934. I was still a German subject then.

Q. I understand. I think you have answered it. In other words, it is your opinion, and it was when you wrote this that all Jewish aliens in this country should be returned to the Holy Land. Is that right?

A. Not "should be". If they wished to. That is, if they could get the same impression here now. We will say I have been in this country. We will say I am not yet an American citizen or didn't intend to become an American citizen. Maybe I have been visiting here or, whatever you want to say, been here three or four years. They don't have to apply for American citizenship, so far as I understand. They can be a resident of the country and then if they realized they could form together like

(Testimony of Friedrich Walter Bergmann.)
a union and believe in their own way, get our country to back them with the protection of Great Britain——

Q. Well, I am not interested right now in what should be done after they get back there.

A. O. K. [583]

Q. You understood, of course, when you took the oath of citizenship that the Constitution protected all aliens in this country as well as citizens, didn't you?

A. Certainly; we have the protection of the country.

Q. And at that time you felt that the Jewish aliens in this country should be returned to the Holy Land. Is that right?

Mr. Jacobson: Object to as a misstatement, your Honor.

Mr. Dean: I am not sure what it was. I just wanted to be sure.

The Court: I will sustain the objection. I think we are getting into immaterial matters.

Mr. Dean: Very well, your Honor.

The Court: Side issues. I don't want to go into side issues.

Q. By Mr. Dean: Now, Mr. Bergmann, you have stated in your written statement, and I think you did on direct examination, that following the war you intended to carry out a routine of travel every year and visit certain places. Will you answer that yes or no? A. Following the war?

Q. Yes. A. This war?

(Testimony of Friedrich Walter Bergmann.)

Q. That you expected to travel.

A. I intended to go see my mother first in Germany.

Q. That answers my question. [584]

A. Then I intended to go and spend six months on the Riviera, come back to this country and stay here two or three years and then afterwards, if my mother is alive, see her again and maybe make another trip for six months to Switzerland and then come back with my permanent residence in the United States.

Q. You stated in your statement that you expected to do that every year.

A. I didn't intend to do it every year.

Q. Not every year?

A. No, not every year.

Q. How much time would you spend on these trips abroad?

A. Maybe six months, eight months.

Q. On each trip?

A. If my mother were alive, I would say spend three or four months in Germany and three or four months in Switzerland and come back and stay two or three years here and then go back and stay in the Old Country and visit, if my mother is alive.

Q. Now, Mr. Bergmann, you heard one of the witnesses you called, I believe, or perhaps it was Mr. Kingman—— A. Yes.

Q. ——whose testimony was read into the record and whose deposition was taken; that you told him that you had a brother who was in the Mayo

(Testimony of Friedrich Walter Bergmann.)
Clinic in Rochester, Minnesota. That is not true, is it? [585]

A. That is not true. He must be mistaken, Mr. Kingman.

Q. You don't recall whether you told him that or not?

A. I am certain I could not have told him that.

Q. And, of course, you told us you never served in the German Army? A. That is correct.

Q. You heard a great many people appear here and testify that you told them that you served in the Germany Army in Turkey during the first World War.

A. I have not. I have a brother, Kurt Bergmann, who, I think, had also been in Turkey.

Q. Do you mean to say you did not tell any of these individuals——

A. Not that I had served.

Q. ——that you served in Turkey with the German Army?

A. I have never served in the German Army.

Q. Wasn't it true when you left in 1911 that you guaranteed to return to Germany? Isn't that right? A. Never.

Mr. Howser: I object to that as being immaterial, your Honor.

Mr. Dean: I will withdraw the question.

The Court: You are getting into an argument here. There are a lot of things this witness thinks is the law of Germany that I happen to know is not so; such as the statement that he was afraid of go-

(Testimony of Friedrich Walter Bergmann.)

ing back to Germany, afraid of [586] being arrested. That is not a true statement because his American citizenship protects him in that regard, and, furthermore, after you have reached military age, which is forty-five, no matter at what time you left the country, you may return despite failure to comply with military service if, in the meantime, you become a citizen of another country.

The Witness: It was prior to citizenship, I meant.

Mr. Dean: Very well.

Q. By Mr. Dean: In order to get along, Mr. Bergmann, I show you Government's Exhibit No. 1 which, of course, has been shown to you many times before.

It is correct, isn't it, that you took this document home with you and filled it out there and either mailed it or brought it in personally to the Immigration and Naturalization Service?

A. I do not think so. I think I made it out there at the time when Mr. Barber was there. I can not remember.

Q. I see. A. I can not remember.

Q. But you recall talking to Mr. Barber about it? A. Yes.

Q. Now, with reference to this answer to Question No. 26—— A. Yes.

Q. ——did you see following that question the portion that has had a line drawn through it? [587]

A. Yes, I do. I can explain that.

Q. You saw that there at that time?

(Testimony of Friedrich Walter Bergmann.)

A. Yes.

Q. I will give you a chance to explain it. But you saw that?

A. I did not see when he put it in because he went away from me for about fifteen minutes and talked to another person.

I can explain it to you this way.

Q. Let me ask you these questions first.

A. All right.

Q. It is a fact, isn't it, Mr. Bergmann, that you told Mr. Barber that you would not take up arms for the United States in an attack upon Germany?

A. I hoped I did not have to fight Germany, but when he said, "Mr. Bergmann, you can not get American citizenship with that reservation." I said—well, he came back after talking to these other men——

Q. Just a minute. Suppose you tell us exactly what you said to him and nothing else.

A. I said, "If that is the case, I will change my mind right away so I can get American citizenship." That is what I said to him because——

Q. That is enough, Mr. Bergmann.

A. I right then and there changed my mind.

Q. In other words, you state that after you told Mr. [588] Barber that, "I hope I don't have to fight against Germany",——

The Court: You are going to get into another argument now. Let the answer stand as it is. He has given an explanation. You are just starting

(Testimony of Friedrich Walter Bergmann.)

all over again. I think it is much better to let the answer stand as it is.

I am not trying to interfere with you, but it is hard for even his own counsel to confine him to one answer.

Mr. Dean: Very well, your Honor.

The Court: I will ask one question that occurs to me. Referring to this letter which was put in evidence——

The Witness: Yes.

The Court: ——that was written by you?

The Witness: That was written by me. I have the copy, yes.

The Court: By the way, it was written June 7, 1939.

The Witness: Yes.

The Court: And at the bottom you say you want an answer by August 1st as you contemplate going over seas.

The Witness: Yes, to New Zealand.

The Court: To New Zealand at the end of that month?

The Witness: Yes.

The Court: You were contemplating going to New Zealand?

The Witness: I was going to the Cook Islands, but I didn't make New Zealand. I intended to make it in 1934. After I came back from my last trip Dr. Bryan said to me, "Well, Bergmann,——"

[589]

(Testimony of Friedrich Walter Bergmann.)

The Court: Let's not get into that. I just wanted to know what they referred to.

The Witness: To my collection in New Zealand.

The Court: You were contemplating leaving overseas at the end of that month?

The Witness: Yes.

The Court: At the end of August?

The Witness: Yes.

The Court: You are sure you weren't contemplating a trip to Europe at that time?

The Witness: I did not. I intended to make another collection next to the Cook Islands. I made a Cook Island collection and I was going to make another collection.

The Court: You know, of course, that that period from June to September 1st was the critical period in Europe which culminated in the invasion of Poland on September 1st? You know that?

The Witness: Yes, I understand very well, and that is one reason why I did not go, because I thought sooner or later Great Britain might be at war and then, you see, I would have difficulty, maybe, making any exploration or doing any archaeological research work.

The Court: All right.

Mr. Dean: That is all the cross examination.

The Court: An redirect examination? [590]

Redirect Examination

By Mr. Jacobson:

Q. Mr. Bergmann, Judge Yankwich and you

(Testimony of Friedrich Walter Bergmann.)

discussed at quite considerable length this statement of yours that you felt the German people should have a place to live. Do you remember that discussion? A. Yes, I remember that.

Q. Is there any explanation you wish to make?

A. All I wish to say is what I said before. I meant prior to this war and after the last war. That is what I would like to make clear and that is why I think I have been confused.

Q. Just a minute. You spoke of after the last war about an international society having failed.

A. Yes, because the state*ment* of the world did not get together in order to stop the leaders from getting into Ethiopia—I mean the Italians.

Q. All right; but you have testified to that.

A. Yes.

Q. What I mean is, the Court——

The Court: I was trying to get an explanation. Ultimately I have to decide this case—I am the trier of facts—and it is my custom, especially when I try a case without a jury, if I think of anything that might clarify a certain topic to ask questions of witnesses. In fact, I allow jurors in my court to do the same thing. I have asked questions of [591] many witnesses here. I just wanted to clarify certain matters.

All right; if you want to ask him any more questions, it is perfectly all right. I have no objection.

Q. By Mr. Jacobson: Now, Mr. Bergmann, the part of the statement on Page 5 that was discussed was as follows: "I want to see the end of the Hitler

(Testimony of Friedrich Walter Bergmann.)
Regime in Germany. I want to see Hitler licked but not the German people. I have a heart for the German people. There must always be a Germany. A country of eighty million people has a right to have land enough to sustain them. The colonies she once possessed were nothing but barren and desert land with the possible exception of German East Africa. Germany should never be split up. It will lead only to political unrest and war in Europe."

I believe that is the part the Court questioned you about.

Were you, in making that statement, referring to what Hitler, as the head of the German government, has done by way of aggression now, or were you referring or understood Mr. Casey to refer to what you thought of the future after the war was ended?

A. Well, after the last war in 1918.

Q. All right.

After the war in 1918 you said that the statesmen had an opportunity to organize the world and you used, I think, the word "police force".

A. And they didn't do it. [592]

Q. They didn't do it so this terrible war came about. Is that right? A. Yes.

Q. All right.

Now, some day this war will be over. Is that right? A. Exactly.

Q. When you discussed that question with Mr. Casey, did you have in mind after this war ends?

A. No, before this present war.

(Testimony of Friedrich Walter Bergmann.)

Q. What was your thought on how the people of the world would get their lands?

A. By international police force, called the League of Nations or—well, like I said before; the statesmen should see to it that there would be no future war and a nation can't attack another nation which is on the defense.

Q. Now, you are talking about the future. In the past they have done the attacking, haven't they?

A. Yes. That is what I want to see prevented.

Q. And it couldn't be prevented in the past?

A. Yes, but they have not done it. They didn't show the spirit of brotherhood.

The Court: Let me help you out, Mr. Jacobson.

Mr. Jacobson: All right.

The Court: I am going to help you out by a leading question which Mr. Dean can't object to because I have a right to ask leading questions. [593]

Now, your statement is this: That whatever you said about colonies didn't refer to what Germany was doing at the present time.

The Witness: Not at present. We are at war. This is my country here.

The Court: All right. You were talking about the past; that they weren't treated right in the past by the Versailles Treaty.

The Witness: Exactly.

The Court: And that in the future they ought to be taken care of by being given colonies because they are a great people and should be given a chance to live.

(Testimony of Friedrich Walter Bergmann.)

The Witness: I wouldn't say "colonies".

The Court: Well, land.

The Witness: The others have colonies. They should have the right too. But I am against colonization myself to a certain extent. I believe the land next to Germany, if they can get it by peaceful means would be best.

The Court: They have it all, including my native country of Rumania. They got that by internal conquest. They conquered the government and took the country.

The Witness: Not after we are at war, because here as an American citizen I have to fight, and I am willing to fight for this country.

The Court: All right.

Mr. Jacobson: I am going to try again, your Honor, with [594] your consent.

The Court: I will let you ask a leading question. Go ahead.

Mr. Jacobson: I am just trying to think of the right question, your Honor.

The Court: All right; take your time.

Q. By Mr. Jacobson: Mr. Bergmann, I want to repeat. Some day the war will end, won't it?

A. Yes, and I hope very soon.

Q. And there will be a peace conference?

A. Exactly.

Q. There was one twenty-five years ago?

A. Yes.

Q. And it didn't work out so good.

(Testimony of Friedrich Walter Bergmann.)

A. Because the statesmen of the world did not get together, didn't show brotherhood.

Q. There was an idea for a League of Nations and that failed? A. Yes.

Q. So countries, including Germany, went on taking land by force. A. Exactly.

Q. Are you opposed to that?

A. I am opposed to that. I am opposed to all dictatorship by force or aggression.

Q. Now, supposing after this war there are too many [595] Rumanians for the land that comprises their historical borders. A. Yes.

Q. Do you think they should starve to death or do you think they should have an opportunity to have a place to live and work? A. Well——

Q. Now, answer yes or no; no argument.

A. Yes, because——

Q. Answer that yes or no. A. Yes.

Q. All right. This is the question I want you to answer. Are the people of Rumania to get their additional space to live in by applying to a world society that will peacefully assign them——

The Court: You are making an argument and a speech, Mr. Jacobson.

Mr. Jacobson: That is true, your Honor, but I don't know how else to do it.

The Court: You may argue that. I have tried to get him pinned down. He has told us the best he could about it.

Mr. Jacobson: All right. That is all, Mr. Bergmann.

(Testimony of Friedrich Walter Bergmann.)

The Court: Now, Mr. Bergmann, just one more minute.

If there is any fact that you want to state or any explanation that you want to give, anything additional, other than a speech, why, I will let you do it now. It isn't my custom to do it, but I think you have thought at times that [596] perhaps you may not have been able to express yourself. Yesterday you said something about wanting to say something and I said, "No". If there is any fact which you haven't given us as yet that you think ought to go into this record at this time—remember it is a fact; not an argument—you may state it now. Your counsel is very capable. I have known them for many years—not Mr. Howser so well as I know Mr. Jacobson—and he will be able to present the argument that should be presented in your behalf when the evidence is concluded.

The Witness: I wish to say——

The Court: If you have any particular fact that you want to add that hasn't been brought out, why, you may do it now.

The Witness: I have made a will since 1937 every second day of January. It is true that I wrote that letter and there is a copy actually in the hands of my lawyer dated 1939 to Mr. McKinney. I have made a will on the second of every year since 1937 until this year, 1942, and the copy of the will is in the hands of my attorney. Indirectly, the letter which you have there directed to the Los Angeles Museum would seem to conflict with the

(Testimony of Friedrich Walter Bergmann.)

terms of my will as I wanted to have it in 1937, but that was unintentional because it means only after death—that if I should die, these things would be bequeathed. I still possess them and if I could sell them or donate them, I would. [597]

The Court: In other words, you are offering that in explanation of this letter and you mean to say that while you were offering to sell them, after death you willed the collection to them.

The Witness: Yes. I made the will on the 2nd of January every year up to 1942.

The Court: But now in this letter, so long as you mention it, you notice that your first proposition is to——

The Witness: To sell the property.

The Court: ——sell it for cash.

The Witness: Yes.

The Court: And then one of your other alternatives is that you want to be paid a certain sum of money over a period of ten years at the rate of $575.00 yearly for fifteen years with the understanding that if you die in the meantime the payments would end. Is that correct?

The Witness: Yes.

The Court: But your first alternative was that you would donate out of $11,600.00, $4,600.00?

The Witness: Yes.

The Court: Why did you make that provision for payment over such a long period of time, $575.00 for fifteen years, to a public body like the museum that lives by appropriations from the

(Testimony of Friedrich Walter Bergmann.)
county and could easily pay it in one year rather than pay it in a period of years?

The Witness: No, they could not. I asked Dr. Bryan [598] before he died—he was the head of the museum for many years—and he said they had many financial difficulties and that is the very reason I made the terms extraordinary long.

The Court: I see.

You know also, of course, that if payment was made in bulk, if it was made in one lump sum you would have to pay income tax on it during the year?

The Witness: Yes.

The Court: While if you received it over a period of years only the installments would be added to your yearly income?

The Witness: Yes, but this has nothing to do with that.

The Court: That is all right. The Supreme Court says that is all right.

Is there anything else counsel want to ask of this witness?

Mr. Howser: That is all.

Mr. Dean: That is all, your Honor.

The Court: All right, step down, Mr. Bergmann.

(Witness excused.)

The Court: Have you any other witnesses?

Mr. Jacobson: No.

The Court: Have you any rebuttal?

Mr. Dean: The rebuttal is this document which

Mr. Jacobson hasn't seen which Mr. Howser has. [599]

The Court: I think there is one thing suspended in the air, gentlemen, and that is that letter of Mrs. Miller has not been offered.

The Clerk: You mean the Lottie Miller statement.

The Court: Yes, Lottie Miller.

Mr. Dean: Oh, yes, that is right.

The Court: It is up in the air. You remember she stated she didn't read it.

Mr. Dean: Yes, your Honor.

The Court: We will put that down in the book. Mr. Somers usually thinks about these things but this time I thought about it myself.

Mr. Dean: While counsel is looking——

The Court: I will tell you, gentlemen, I want to close the testimony and then I will cut into the noon hour and we will take an adjournment and then have the argument in the afternoon.

Mr. Dean: Mr. Casey, will you take the stand.

The Clerk: Does the defense rest?

Mr. Howser: Let me see that, Mr. Dean. Maybe we won't have any objection.

Mr. Dean: I thought you saw it. I am sorry.

Mr. Howser: Defense rests.

JAMES D. CASEY,

recalled as a witness by and on behalf of the Government in rebuttal, having been previously duly sworn, was examined [600] and testified as follows:

Direct Examination

By Mr. Dean:

Q. Mr. Casey, I show you Government's Exhibit 3 for identification and ask you if you have seen that before?

A. Yes, I have seen that statement before.

Q. To expedite matters, is this statement one that was signed in your presence by Mrs. Charlotte Miller who appeared in this court yesterday?

A. That is true; she signed it in my presence.

Q. Before signing it, will you tell tell us the circumstances very briefly under which she signed it, please?

A. When I first went into Mrs. Miller's residence and interrogated her about Mr. Bergmann and her associations with him, which took a period of probably twenty or twenty-five minutes, after completing the questioning, I took the appropriate part of her testimony—her statements to me and wrote them out in this statement. After writing this out—this statement was on a pad of paper—I handed it to Mrs. Miller and I said, "Please read this and if this is true and correct would you mind signing it?"

She said, "No". And she took the pad in her hand and looked it over, then she signed her name.

Q. How long did she have it in her hand before she signed it?

(Testimony of James D. Casey.)

A. Oh, I would say thirty seconds to a minute. [601]

Q. Of course, you didn't make any threats or give any promises, did you, Mr. Casey?

A. No, I didn't.

Mr. Dean: I offer this in evidence, your Honor.

Mr. Jacobson: To which we object on the ground Mrs. Miller didn't read it before signing it.

Mr. Dean: I can't prove that.

The Court: If that were true, you could never impeach a person. It is made the duty of a person to read everything they sign. This is merely offered for impeachment. It is up to the Court to determine whether the lady was correct or wasn't. Being a lady, we have to use polite words.

The objection is overruled and the weight will be determined later on.

The Clerk: 3 in evidence.

(The document referred to was marked Government's Exhibit 3, and received in evidence.)

Long Beach, California
April 20, 1942.

I, Mrs. Charlotte Miller, 49 Mariposa Ave., Long Beach, make the following statement freely and voluntarily to Special Agent James D. Casey of the Federal Bureau of Investigation. No threats or promises have been used against me.

I have known F. Walter Bergmann for about two years. In February of 1940, he told me, "I send my money back home to Germany." He has said that he owns property all over the world. I

(Testimony of James D. Casey.)

have been in Bergmann's apartment in 1940 and at that time saw German newspapers and magazines scattered about in his apartment.

I have read the above statement and it is all true.

Signed: MRS. CHARLOTTE MILLER

Witnessed: James D. Casey, Special Agent, F. B. I., Los Angeles.

[Endorsed]: Filed 11/20/42.

Cross Examination

By Mr. Howser:

Q. Mr. Casey, Government's Exhibit No. 3 contains about twelve or thirteen longhand written lines, is that right?

A. I think it is approximately that. It isn't quite one full sheet.

Q. That, as you say, was the appropriate part of a twenty-five minute conversation that you reduced to writing? A. Yes. [602]

Mr. Howser: I think that is all.

(Witness excused.)

Mr. Dean: At this time, your Honor, I offer in evidence a report made by Mr. Barber of the Department of Immigration and Naturalization Service to his superior with particular reference to notes in the upper lefthand corner following the word "see que. 26". I understand counsel have no objection to the receipt of that evidence.

Mr. Jacobson: Yes, I am, your Honor.

Mr. Howser: Just a minute.

Mr. Jacobson: I object on the ground it is hearsay.

Mr. Howser: My error, Mr. Dean.

Mr. Dean: O. K.

The Court: Are you insisting on the objection?

The Court: Let me take a look at it.

(Document passed to the Court.)

The Court: Which paragraph?

Mr. Dean: It is the upper lefthand corner, your Honor.

The Court: Well, I will tell you gentlemen, I am going to sustain the objection to this for several reasons. In the first place the witness has admitted that he made such a statement and that upon being informed by Mr. Barber that naturalization couldn't be obtained by any one who declined to fight against any country he considered the matter for fifteen minutes and then right then and there changed his mind. In view of that fact, this won't have any impeaching [603] value.

Secondly, I have had my clerk verify the fact as to whether I presided on April the 9th and he states that I did.

Mr. Dean: Your Honor, may I just state a word? I am not certain as to the state of this record with reference to that admission by the defendant. I concede, of course, if he admitted it then I will withdraw the offer.

The Court: He admitted that he was gone fifteen minutes and thought about it and when he came

back he said he changed his mind right then and there.

Defendant Bergmann: Right then changed my mind.

Mr. Dean: My understanding was that he said to Mr. Barber, "I hope I do not have to fight against Germany." That is why I was pursuing that line of examination when the Court stopped me.

The Court: All right. Just wait a minute. I think, anyway, this would merely be a memorandum, and in view of the fact I raised the question I don't want to exaggerate the importance of the fact and make the naturalization service fear that I am unduly critical of a little slip-up that may occur at any time. I stated definitely at the time that I felt a matter of this character should have been called to the attention of the Court because matters of less gravity have been placed upon the doubtful list because the examiner can do nothing but recommend. Furthermore, this is merely a memorandum and I don't think Mr. Barber needs any defense so [604] far as I am concerned. I will take his statement that he made the recommendation. I don't think he need fear that what I said might reflect on him.

Now, the only way to impeach the testimony as to what took place, is by having Mr. Barber testify —I don't think he testified before—how he happened to write those words, and those are the exact words that were given to him by the applicant.

Mr. Dean: I would like to have Mr. Barber do that.

The Court: I will sustain the objection to this because it is merely a memorandum of the conversation and the witness is available and if he needs to refresh his recollection, yes, but as primary, testimony I will disallow it.

BRUCE G. BARBER

recalled as a witness by and on behalf of the Government in rebuttal, having been previously duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Dean:

Q. Mr. Barber, directing your attention to April 9, 1937, will you tell us very briefly just what the conversation was that you had with the defendant Bergmann with respect to the answer to Question No. 26, contained in Government's Exhibit No. 1?

A. I observed these two marks, one under "defense", and one under "yes." [605]

Q. At what time did you observe them?

A. At the time I was checking the form with Mr. Bergmann, just prior to the time of the filing of the petition.

Q. In your office?

A. Yes, in the Immigration and Naturalization office.

This prompted me to make inquiry as to whether he had any mental reservations or was unwilling to take the oath without some qualification, and I then asked him if he had any religious scruples

(Testimony of Bruce G. Barber.)

about bearing arms in the defense of the United States. In fact, he said he had not. In view of these words being under there I pursued the questioning further and asked him if he had any objection to bearing arms or taking up arms in an attack upon Germany, and he then, in effect, said he wanted to add the qualification which I wrote on the form here following the word "yes."

Q. Will you tell us what that qualification is?

A. He says, "Yes. But will not take up arms in attack upon Germany."

Q. Now, what followed that?

A. I don't recall that I went out of the room. Mr. Bergmann testified I did, and that was entirely possible. Anyhow, before we concluded the interview he said that he wanted to withdraw his qualification and that he was then willing to take the oath without any qualification, particularly as to that part with reference to bearing arms.

Mr. Dean: That is all. [606]

The Court: All right; any cross examination?

Mr. Jacobson: Yes.

Cross Examination

By Mr. Jacobson:

Q. You, I presume, have interviewed a great many thousand applicants since this time, have you not? A. Yes.

Q. You heard Mr. Bergmann testify that he said he hoped he would never have to fight Germany?

A. Yes, I did.

Q. Now, would you say that he more accurately

(Testimony of Bruce G. Barber.)

stated it or that you wrote down his exact words when you wrote, "But I will not take up arms in attack upon Germany"?

A. Well, I would say that the written answer there is correct because I would ask him to sign that statement.

Q. Yes, but in making your notes and making replies, you more or less summarize an applicant's statement, do you not? You don't make a stenographic report of it, do you?

A. No, not always; but referring to that particular answer it was so different. That is why I repeat it here today that I recall the part of the conversation or a good part of it. I put down his exact words there.

Q. You are positive that he said "I will not," rather than "I hope not"?

A. I would have put down what he stated at that time.

Q. That is not then a summary but is the exact words? [607] A. Yes.

Q. Are you basing your testimony on the fact you wrote these words, or do you have any independent recollection of this particular conversation?

A. I have an independent recollection of this conversation because at the time I was considering the legal significance of the statement.

The Court: It is agreed that those words—strike that.

In whose handwriting is the sentence that is stricken out?

(Testimony of Bruce G. Barber.)

The Witness: That sentence is in my handwriting.

The Court: The word "yes" is in his handwriting?

The Witness: Yes, that is correct, your Honor. The word "yes" was written by the petitioner.

The Court: Then he, or rather, you put in the qualification when he gave it to you?

The Witness: That is right.

The Court: Then you told him that if had that reservation in there, citizenship would be denied him?

The Witness: Yes.

The Court: This is what he has testified to. You see, that is why I am asking you rather leading questions because that is what he said.

The Witness: Well, it would be to that effect, yes.

The Court: I see.

Then when he came back he told you he changed his mind. Is that the idea? [608]

The Witness: I don't recall if I left the room or not, but, at least, before we concluded the interview he told me he had changed his mind.

The Court: Then you made the memorandum in the other form that Mr. Dean offered in evidence?

The Witness: That is correct.

The Court: For your superior officer?

The Witness: That is correct.

The Court: Very well.

Mr. Jacobson: No further questions.

Mr. Dean: That is all.

(Witness excused.)

The Court: Now, let's see; did I act on that Exhibit 2?

Mr. Dean: The one that was offered, your Honor?

Mr. Jacobson: The Miller letter?

The Court: Yes.

Mr. Jacobson: I think you admitted that, your Honor.

The Clerk: That is No. 3, your Honor.

The Court: Is there any other testimony?

Mr. Dean: No further rebuttal testimony, your Honor.

The Court: All right.

I don't want to limit you as to argument, but I want the argument concluded this afternoon, gentlemen, so if you promise to conclude it this afternoon we will take the regular adjournment until 2 o'clock. I don't see any reason why, during the regular session, we can't conclude whatever [609] argument is necessary.

Mr. Dean: Mine will be very brief, your Honor.

The Court: I know you all worked hard and I don't want to work you longer hours. It is just as much of a strain on me as it is on you.

Mr. Howser: Your Honor, I would like to ask one favor of the Court. Mr. Jacobson has been carrying the greater portion and burden of this trial so we have more or less divided up our argument. I will comment upon the government's witnesses and

it is Mr. Jacobson's desire to comment upon the testimony of the defense. With your permission we would like to handle it that way. We will assure you that we will not take double time in doing so.

The Court: I have no objection to doing it in a case of this character because where the burden of trial is borne by one man, it may well be that one of the others can better express his thoughts about the matter, so long as we try to avoid too much unnecessary repetition.

All right, gentlemen, we will then take the regular recess until 2:00 o'clock.

(Whereupon, at 12:35 o'clock P. M., a recess was taken until 2:00 o'clock P. M.) [610]

Los Angeles, California,
Friday, November 20, 1942.
2:00 P. M.

The Court: All right, Mr. Dean.

(Here followed the opening argument on behalf of the government which was reported but not transcribed.)

The Court: All right, Mr. Howser.

ARGUMENT ON BEHALF OF THE DEFENDANT BERGMANN

Mr. Howser: Your Honor, Mr. Dean and Mr. Jacobson:

Mr. Jacobson and I, your Honor, have sensed the responsibility of our duty to our client in this case

exceedingly, and we have done so because we, as individuals who have been fortunate enough to be born in this country, appreciate and realize the importance of citizenship in our country. But may I say to this Court that I stand before you convicted in my own mind with the feeling, perhaps, I have been guilty of expressing myself perhaps too boldly as a citizen of this country, disrespectful to it, something that we and many of us in this country certainly have been guilty of many, many times.

Now, in the last war and in this war we, as Americans, have been swayed in our actions towards other people by a great wave of patriotism, and I say to you, your Honor, that in many cases in the true American style we have overdone it. I remember as a boy living back in Nebraska—I lived in a community surrounded by Bohemians and Germans—the German children that were born in Nebraska during the first World [611] War were ostracized and were ridiculed by the children in school who, no doubt, in my mind, got their beliefs from their parents. I will say to you that my father deemed it necessary to change the name of Howser from H-o-u-s-e-r to H-o-w-s-e-r because it appeared to be too German.

Now, we are just human beings and these witnesses that have come to this court room are just human beings and I know there are, as the Court does, certain human frailties and one of them is the tendency to be misled by that demon suspicion fired by our spirit of patriotism and our loyalty to this country. I say, Mr. Dean, that as to the witnesses

who have come here for the government there is no doubt in my mind and I am convinced that they have gone back into the recesses of their memory—no, not as American citizens did they report to the authorities these unpatriotic statements of the accused in 1937 or '38, but they spring them on us today in a time of war. There isn't a single witness that testified on behalf of the government, your Honor, who could give us a single thing as to the content of the conversation that occurred except those portions as termed by some the most important thing.

Now, the United States District Attorney—and, your Honor, I have the greatest respect and want to acknowledge and thank him for his fair and kind manner in which he has handled this case—has indicated his belief that the defendant Walter Bergman has obtained his citizenship in this [612] country only for the purpose and from the standpoint alone of his ability to acquire, to make money and, as this Court realizes, to covet that money. Bergmann to me, your Honor, can best be described as my associate has described him to me. He is an individual coming from a family whose father deserted it, and his mother has pressed into his mind only certain things and he is just like a person who is looking through a long pipe. He can see only certain things, and those things are money, self sustenance and Walter Bergmann.

I do not deny, your Honor, that we have here an individual whose apparent and only desire is to covet the dollar. He has severed his relationships with his own relations except his mother as far as

this evidence is concerned. He has disgorged himself of every pleasure in life except to covet money. He has lived like a tramp. He has severed and failed to make friends. And he has deprived himself of a wife and a home and a family as Victor Kingman has told us in his opinion—and it is my opinion, too, your Honor—to save the dollar.

Now, if those things are true—and they are uncontradicted in the evidence—and if a man's first love is acquisition, dealing in and coveting of property and if he is inclined to deprive himself of the common things of life, forego the ordinary human things just for the mental satisfaction of self-reliance, can't we then say, your Honor, loyalty to the country exists in his heart that affords to him the opportunity of obtaining those things which he covets most? [613]

We have a case here where a man has acquired a great fortune, and he has acquired it to the deprivation of his own pleasure except the mental satisfaction of self sustenance and to be independent. America gave him that opportunity, your Honor.

I would like to compare the situation with a man who is in business and who neglects his own family. And if you will permit the personal reference again, I was one of nine children in my family. My mother died when she was thirty-eight years old. I was the youngest one in the family. My father lived until he was eighty. He said to me on numerous occasions, your Honor, that the one thing that he regretted most was that he neglected, outside of the manifestation that I have referred to, to give his

wife more attention. He did not take her any place. She was dressed commonly. She was not bestowed with gifts or jewelry. But, your Honor, even though he was busy at the plow farming or in later years doing other things, he still loved my mother but he neglected her.

What proof do we have in this case that this defendant has any greater love for Germany than America? What proof do we have *the* he could build a greater fire or admiration for some other country than of America?

This brings me down to this situation, your Honor, and that is this: Walter Bergmann, the defendant in this case, if you please—excuse me for pointing at you; I don't mean it that way—can not be gauged by the same standard that [614] we can gauge, perhaps, other people in determining whether or not he is loyal or disloyal to this country. Now, in negligence cases we judge negligence by the term "ordinary, reasonable, prudent, person"; in child cases we gauge the accountability of a child by his age, his mental capacity and so forth. We can't determine the loyalty of the defendant by the standard of loyalty that is best displayed by our senator elect from Los Angeles County whom I have had the pleasure of knowing, a gentleman by his very act as chairman of the un-American activities of the State of California is constantly waving the flag. We can't gauge him by the person who loves to put on a uniform and parade. We can't judge him by, let us say, the air raid warden in a neighborhood who has the whole group in the neighborhood aroused

over this situation, meeting in his home. We have no right to gauge him by the standard of those who marched across this country and camped on the lawns of our Washington Capital. We can't gauge him by the people who have caused strikes in the defense industry in this nation.

I say to you, your Honor, we have to consider this man entirely by his own makeup. Now, the government witnesses in the greater part—and I know the Court appreciates this—are giving us statements prior to December 7, 1941.

In the case of United States vs. Schurmann, 264 Fed., 917, the Court said that the test is try out his attitude of mind and heart under conditions of 1916 and '17, under [615] conditions when men are accused of giving utterances to their resentment to others.

The government witnesses, your Honor, in the great part are aroused in my mind, as the Court said, by the fact that this man has, because of his manner of living and of treating people and his boldness become a thorn in the side of a lot of people down in my community. It is peculiar to me that all of them, save one, can remember only just a few statements that were made; and I know where partial statement or statements that are not reduced to writing at the time when the memory is fresh, that the Court will gauge the same with a great deal of caution.

Your Honor, there is no doubt in my mind when this witch hunt started—and that is just what it was—that these people reached back, as I said be-

fore, into the recesses of their minds and did the best they could to recall what was said.

There is not a single bit of evidence in this case that a single witness who has testified on behalf of the government at the time or was in a reasonable time ever reported to a single law enforcement agent in this country the statements made.

Two of them made some very damaging statements as to the defendant after Pearl Harbor, Officer Graham and this man Haschkae. I do believe it is significant that Haschkae in a public park, in Lincoln Park in Long Beach, endeavored to [616] sell the defendant a piece of property for $8,000.00 and that my fellow citizen on the Long Beach police force endeavored to float a loan. Now, these government witnesses, your Honor, have made statements, as Mr. Dean has called to your attention, to facts which have not, but to the contrary have been positively proven to be not true. One was as to the defendant's military service in Germany. Mr. Barber stated, as I recall it, on direct examination that he saw something under the word "yes" that looked to him like "no" and today Mr. Barber got on the witness stand and we called his attention to the underscoring manner in which this defendant has also put the like description under the word "defense" and then said that he had seen it under "defense" so he raised certain questions.

As to Mr. Rankin, I know your Honor is correct. The witness will never be able to satisfy himself in his own mind that you are correct, that you did not ask the questions that he said you did when

the oath was administered to this defendant. So it does show us that people do come in here conscientiously and in earnest and not give us the facts.

Now in the case of U. S. vs. DeTolna, 27 Fed. (2d) 984, in a similar proceeding there were certain things brought out that were found by the Court to be necessary to revoke citizenship. There in that case the defendant held himself out as an Austro-Hungarian in a marriage license. He bought a yacht as a Austro-Hungarian subject and registered it under the Austro-[617] Hungarian flag. He traveled around the world flying that flag and he never claimed to be an American citizen.

In the case of U. S. vs. Tapolcsany, 32 Fed. (2d) 385, the facts were that the defendant admitted that he was opposed to the present form of government in the United States and he liked Russia; and secondly, there were direct declarations by the defendant that the defendant when he sought citizenship did so with the intent of destroying the government of the United States.

In the case of U. S. vs. Kramer, 262 Fed. 395, the defendant in that case said that he would do all he could against the United States and help Germany; that he would send information to Germany about the movement of our troops here in this country and that he was going back to Germany through Mexico; that he did not want to live in this country.

In the case of U. S. vs. Wursterbarth, 249 Fed. 908, the facts in that case were that the defendant didn't like men fighting in his country; but he would do nothing to defeat Germany; that he didn't want

America to win the war; that the defendant made no attempt to explain or refute, which I think is very important.

In the case of U. S. vs. Darmer, 249 Fed. 989, the defendant was a citizen in 1882 and he said he would rather throw all his property in the bay than to buy a $50.00 bond and there was no attempt to make an explanation by the defendant, which I think is very significant. [618]

In the case of U. S. vs. Schneiderman, the defendant admitted membership in certain communistic orders.

The Court: That case is before the Supreme Court now.

Mr. Howser: That is right, it is before the Supreme Court.

The Court: We don't know what they will do with it, so disregard it.

Mr. Howser: The thing that is confusing me, your Honor, is how are we going to disseminate the evidence in this case, and how are we going to say that these people were mistaken when they said that the defendant said that he had served in the German Army and at the same time say they are speaking a truth and they are not mistaken when they repeat certain statements that he is supposed to have made.

Now, in jury cases, and particularly in criminal proceedings—and this, while it does not carry in law a penalty, is semi-criminal in my mind—there is a rule of deliberation that courts usually give juries and that is this: That where there are two reasonable hypotheses each which appear to be of equal

strength, then, as far as the jury is concerned, it is their duty to acquit in a criminal case. Your Honor, I submit to you that this record is conclusive as to a proposition that we have a man who came to this country. He has seen himself. His ability to earn money has been for himself. He didn't want money to buy nice things as other people did. But he wanted money to covet. He wanted to fondle it, we [619] might say. He wanted the mental satisfaction that he had it if the time would come that he would need it.

Now, true, he has neglected his country in that he has not done a lot of things that maybe you and I have done, but actions speak louder than words. There is nothing in the world more dear to that man, outside of his own life, than his property; and I submit to this Court that throughout the years—and it is in the record and it is there by competent people from both the government and the defense—that he wanted to leave that property to the Y.M.C.A. in Long Beach and the Y.M.C.A. in Toronto, Canada, to the Salvation Army and other properties to the City of Long Beach; that he takes his archaelogical exhibits to the museum in Los Angeles for the public's benefit. He did not get any rent out of these exhibits. It was pride. He risked his life going to the South Sea Islands robbing graves of the natives to bring back the exhibits for the education of the children of this country, your Honor, and not Germany. I say a man who loves money as well as he does, who is willing to leave it on his death to the country and in the country that he acquired it,

is showing by actions something that speaks much louder than words. I thank you.

The Court: Mr. Jacobson.

Mr. Jacobson: If your Honor please and Mr. Dean: I, of course, feel this proceeding especially keen; the youngest of six children of immigrants raised among immigrants. You had [620] to be the head of your class in school because you were an immigrant child—and generally, we were.

I heard discussions by the Schirmers and the Schultzes in my neighborhood, the Emberts, the Jacobsons, the Larsons and the Petersons, and one of the things they always talked about was the economic opportunities here. My father was an artist with jewels, and I think his salary as a master jeweler in Sweden was $6.00 a month in American money or 24 Swedish crowns which he used to explain to me was just enough the keep from starving to death. His first job in the United States paid him per week about three times as high as he had ever earned in Sweden and he was very grateful about it.

My mother had been an apprentice as a young girl to learn how to cook and she got nothing. When she got to be a good cook she got 75 cents a month and was very grateful about that.

I think the Statue of Liberty tells "You oppressed people of Europe, come to my shores," and what do you find? You find what you are looking for. But I don't believe America would be much good for anybody, I don't think it would be much good for me or anybody else if you couldn't find some form of economic opportunity. In fact, Vice-

President Wallace's great campaign is the sentry of the common man, economic freedom. He doesn't express particularly political freedom or social opportunities; he expresses how important it is to have economic freedom. Everybody gets out of life according to [621] his own inner makeup. One man becomes a violinist. Another man becomes a movie star and another man paints pictures or makes jewelry or farms. Some men care more for money than others. Some men have a better appreciation of what money is worth. There comes a time when your Honor knows and all sensible people know the law of diminishing returns applies; that you can work and get a certain salary, and an increase of ten dollars a week is practically of no importance. You can't eat any more food. You are overweight as it is. You can't wear any more shoes. But that isn't what they want. They want still more money. Hetty Green practically starved to death in New York, a native born, with millions. We have here a German born Hetty Green. He saw in America freedom of trade, economic opportunities, a kindly people that didn't exist in the country he had come from.

His life would have been tough even in the United States as a boy. His father deserted his mother and his mother took in roomers. The motivating force in that man's life is economic security.

There has been a parade of witnesses, about 34 or 35. The government has commented on the fact that we have produced 15 witnesses, outside of Mr. Bergmann, whose testimony to his loyalty is more or less of a negative nature. Well, supposing the

issue in this case was whether he is a man of good moral character. I think you will find it very difficult to find people who would talk about it because when a man is [622] of good moral character—and I know there is a case in the Supreme Court to prove that—you don't have to prove people sat down and talked about it and said, "John is a man of good moral character." The people talk about those things when they are not.

Dr. Crump, a man with three sons in the service, Mitchell Ellis, Rohrs—you have men who have known this man from anywhere from six to twenty years. The two neighbors down there, the two Irishmen, Dungen and Horan, they can't find a thing wrong. They can't find in their memory any disloyal conduct, any disloyal statements.

Now, true, they can't come into court and testify, as the government witnesses did, that they are certain today the man said that thing, but they just accept the man. The man is accepted. They do business with him. They live neighbors. They like him. And why do they like him? They like him because he has been a good neighbor. Being a good neighbor even has sanction of higher authorities in this country—the Good Neighbor Policy. It is significant to me that in all these business dealings it just isn't a question of commerce. The man was a good man to deal with, yes; and he was a good business man.

I don't believe George Trammell came in here and testified on behalf of this man after his acquaintance of many years just because Mr. Bergmann happened

to be a client of his at one time, because the relationship started when he [623] was a public official.

Geiselman, a World War officer, a former prosecuting attorney, a man high in the business professional life in Los Angeles, true, he had commercial motives too. It is pretty hard to be Simon pure in any of our relationships. Even among our best friends we get something out of them; nothing else maybe than a cup of coffee or a highball or a cigar, but relationships aren't so Simon pure and of such rare etheric density or lack of density that friendships are completely divorced from practical considerations.

You generally like a man or like a woman because they have been kind to you. Maybe they have done you a favor or sent you some business or entertained you in their home.

Now, this Mason lady is one of the first widows of this war. It is inconceivable that she would come in and testify if anything in the relationship of herself and Mr. Bergmann—they had been neighbors at one time—was such to make her believe that he was disloyal to the country for which her husband gave his life here a few months ago. I think her testimony is very important; how he had encouraged her to keep her chin up when she was a bride or young married woman and lonesome because her husband had been sent to the east coast. He told her that is one of the prices she paid in marrying a man who was in the service of the Navy. He told her after her husband had died that that was what her husband was fighting for, so people

could live like Americans. I [624] think that would be a fine time for him—this was long before the suit had been filed—to express his German sentiments.

Now, you have a recluse here. You have an odd person. He has found in America certain things. My father found certain other things. I am deeply sympathetic to what men find in this country. I think native born people vote according to what they will find in the election of certain men or the defeat of others.

The most striking thing, the most significant thing in the government's testimony is this: Assuming all of them are honest and all are well intentioned, take the testimony of Mr. Rankin. He says positively he heard you discuss these matters with Mr. Bergmann and you know it isn't so; and I presume it isn't so because surely the records of the Court would show that and yet Mr. Rankin left this court completely convinced that that had happened. Now, he testified Bergmann said he was an ex-German soldier. If his testimony about that is as reliable as his testimony "You engaged in a conversation about this war business or about this reference or you interrogated personally on this subject matter"?

Now, the charge in this case is fraud. Stripped of all its legal verbiage, what is fraud? It is fooling people. We fooled somebody. That is what counts. That is a necessary element. I think it is number 3 or number 4 in the historic figure 5 which I have heard discussed. Somebody says some- [625] thing they know isn't so. They tell it to you knowing

that you don't know any better and that you have faith in them, that you believe it. You act on it and you act on it to your own detriment. Who has been fooled? That came right up in the government's questioning of this man. Question No. 26 is an unfortunate question. I think it should be changed. Why does the government itself say, "Will you bear arms in defense of this country?" I don't know why it doesn't say, "Will you bear arms for the United States?" You have a man born abroad. You have probably noticed sometimes he translates—his lips move and he translates words that aren't perfectly clear to him in English. He underscores the word "defense" and he underscores the word "yes" and the government is impressed by that underscoring and says, "What do you mean?"

He said, "I will always defend this country against anybody but I hope I will never have to fight against Germany."

The government examiner discusses it with his superior. Mr. Bergmann doesn't see what is written down, but when it is called to his attention, when he understands that there can be no mental reservations, he gives up his mental reservations. Who was fooled? Nobody was fooled. He takes and crosses that out and later on goes into this court, takes his oath of citizenship in the utmost good faith and without any intention to not be according to his life a true and loyal citizen of this country. I do not believe the government has sustained its burden of proving that the man defrauded [626] this government by means of his mental reserva-

tions and his insincere taking of the oath of allegiance to this country.

The Court: I want to make one observation here before you start your closing argument.

Mr. Dean: Very well.

The Court: These cases do not require that the fraud be actually in the sense in which it might be used in a prosecution in an action, for instance, to set aside a conveyance.

Just a moment, until I find the case I am looking for.

Judge Cushman of the Western District of Washington in a case which arose during the last war, U. S. vs. Herberger, 272 Fed. 278, used this expression:

> "Loyalty or allegiance is, necessarily, of slow growth; therefore, somewhat involuntary, not fully subject to the will. Those who lightly, for temporary advantages, undertake to change their allegiance, are liable to overlook the deep-seated nature of this feeling; but the fact that not until afterwards, in times of stress, is it made manifest that the desires, suffered to lie dormant, are stronger for their native than their adopted country, although this fact may not be fully realized at the time of their naturalization, renders it nonetheless a legal fraud for the applicant to fail to disclose his true, although latent, feeling in such a matter."

There is similar language in the case that you cited, [627] that Hungarian name Tapolcsancy, U. S.

vs. Tapolcsancy. That is a Circuit Court case and it uses language of similar character. In fact, Judge Cushman said that if it be shown that the seeds of such feelings were fertile within him at the time of his naturalization, the burden shifts to the defendant to show a revulsion of feeling, if any, after his naturalization.

I wanted to call that to your attention for any comment you may desire to make because I do not think it is necessary. At least, I know of no cases in which it has been held necessary to prove fraud with the exactness of the five elements which constitute civil fraud and four which constitute criminal fraud, which you have enumerated, that is, the making of a self statement, knowing it to be false, with intent, and reliance upon, and then damage in case you sue for civil fraud and, of course, in criminal fraud it is immaterial.

My reaction to the reading of all the cases—and I think I read every one of them—is that the government does not have to prove fraud as that is defined in the law of frauds.

We have in this district a very recent case decided by Judge O'Connor. It is the case of U. S. vs. Shapiro. That was a revocation of citizenship, and in that case the certificate was revoked upon a showing that the applicant had gained admission to this country by representing herself to be somebody else. Of course, in one respect you might say that is [628] a very laudable ambition for a person to want to get in so badly that she poses as somebody else. The object in that case, I presume,

was to avoid the quota. But Judge O'Connor in speaking of the oath prescribed by Section 735 says:

> "There are four positive, definite and unequivocal agreements. If the oath is taken without any intention of renouncing allegiance to a foreign government; or without any intention of supporting and defending the laws of the United States against all enemies, foreign and domestic; or without any intention to bear true faith and allegiance to the United States; or if the oath is not taken freely without any mental reservation or purpose of evasion, no one would seriously contend that the alien had, in reality, become a citizen of the United States. When Congress included the promise 'to support and defend the Constitution and laws of the United States of America', it had in mind, no doubt, the elimination of so-called fifth and sixth columnists."

He held that merely the representation of herself as somebody else was an impersonation which was a fraud on the United States.

These cases indicate that when you are dealing with an intangible like loyalty, you are not limited in your proof to the strictness with which you would have to charge a fraudulent scheme in an indictment for using the mails to defraud or in which you would seek to set aside a conveyance [629] by rescinding a contract on the ground fraud; nor is it the rule that in cases of this character we can apply the criminal law doctrine that if certain acts

of Congress had been interpreted as consistent with good intentions, they should be so interpreted. There is no such requirement in civil action—and this is a civil action—under the Congress of the United States.

I want to read that decision in the Tapolosancyi. What is that citation you had there? 31 Fed. (2nd), isn't it?

Mr. Howser: I have 32 Fed. (2nd).

The Court: All right; I think you are right.

Mr. Howser: 385.

The Court: I have been reading so many of these cases.

Mr. Dean: There is another citation, 40 Fed. (2nd) 255, your Honor, which may be the Circuit Court as distinguished from the District Court decision. 40 Fed. (2nd) 255 is the citation I have here for the Circuit Court.

The Court: I want to read something that appears there which bears upon the proposition. I want counsel to have a correct understanding.

Wait a minute. I think it is right here. What is that; 31 Fed. (2nd)?

Mr. Howser: No, we have 32 Fed. (2nd) 385, your Honor.

The Court: It is in there, I think, in one of the books in the other room, Mr. Somers.

The other one you say is 40 Fed. (2nd)? [630]

Mr. Dean: 40 Fed. (2nd), 255.

The Court: In that case we have two opinions. We have the District Court opinion and the Circuit Court opinion. The court here draws a distinction

between the rights of a citizen and the rights of an alien. That distinction is quite apparent from an analysis of the law because when conditions are imposed upon an alien before he can become a citizen without similar requirements being made of a citizen before he exercises his rights.

To illustrate, for instance, a man may be immoral or of bad moral character and unless he has actually been convicted of a felony you can't deprive him of his civil rights. An alien applying for citizenship must say that he is and has been a good moral character for a period of five years. Some judges denied citizenship because a man was accused of a misdemeanor. During the days of prohibition continuously the courts denied citizenship to persons who had been found violating the prohibition law although that was the favorite sport of all the American people for ten years.

In answer to the argument that after all this man had a right to advocate the overthrow of the government by force, the court made this answer:

> "While no one may be deeply attached to every provision of the Constitution and while all citizens have a right to work for its amendment in an orderly way, that is the right of a citizen. The respondent [631] approached that right not as a citizen but as an alien. As an alien he had no such right. Moreover, citizenship itself is not a right; it is a privilege——a civil status conferring rights and immunities. The respondent alien, of course, was free to apply for the privilege which the soverign govern-

ment might refuse altogether or might grant on such conditions as it should impose. In this instance it imposed upon the respondent the indispensable condition that he be attached to the principles of the Constitution."

When you consider that you are dealing with a privilege that can be obtained only in strict compliance with the requirements, the government has the right to refuse under the law of the nation to naturalize anybody.

Incidentally, Mr. Bergmann himself, you know, labors under that Teutonic Northern Europe theory which, of course, is also the basis of our present restriction law. The assumption is that we brown haired, blue eyed persons are better than the dark haired persons wherever we are found. He makes this statement in there that the reason be believes the English and American ought to combine is because they are Teutons and there is more crime from people coming from Southern Europe than from those that come from Northern Europe. Well, he merely gives expression to the common belief which led to the promulgation of the present restrictive immigration laws and the quotas are based upon that theory [632] that the Northern European people are more easily assimilable and the southern people are less easily assimilable and for that reason——that was the status back in 1890——it is for the best interest of the country that the northern people should have a greater number than the southern people. Of course, any student of sociology or ethnology can

show in a minute that there is no foundation in fact or in science for that assumption. Ethnologists can not find the criminal quantum dependent upon eyes, color of the eyes or form of the cranium.

I am merely referring to that to illustrate the proposition that we ought to have an understanding of what we are dealing with, and we are dealing with a privilege that must be conferred and the burden is upon those who seek to obtain it to show that he has complied in all respects with the requirements. If later on, either through concealment, directly or indirectly, or even through ignorance, it appears that any of these requirements did not exist, it amounts to legal fraud.

Now, I just wanted to make that statement so we could have an understanding. You didn't argue the law. I didn't insist on it. But this is the reading that I give to these cases and I think I have read every one that has been published in the last 30 years.

The first cases that arose in this country, arose after the last war and there have been four or five decisions in [633] writing since the last war. So if you desire to make any comment on that, why, I will be glad to have you do so.

Mr. Jacobson: I don't believe so.

The Court: In other words, the principle which you suggest, that you and Mr. Howser suggest is between two apparently contradictory facts. We choose the one that is more consonant with loyalty than the other. That is merely an application of a doctrine applying to criminal law, and the other one, your proposition that the fraud must be proved with a

certainty with which you would prove it in a civil case of fraud, is likewise a doctrine which is not applied in these cases.

Ultimately, I agree with you there should be no judgment depriving a person of citizenship unless there is substantial proof that there has been a failure to satisfy one of these requiremnts. When the failure amounts to concealment of ones loyalty, the proof should be direct and positive. Now, other than that, I don't agree with your statements of the principle of law. I am not going to express any opinion on the facts because that would be the decision. That I will do when I decide the case.

All right; anything further?

I promised we would be finished this afternoon. I don't want to rush anybody. We have been working very hard, all of us. I haven't been out of my chambers all day. I had a sandwich and a glass of milk brought in to me while I was [634] working on some other matters.

Mr. Dean: As far as the government is concerned, your Honor, we are going to submit it without further argument.

The Court: I see. All right.

Mr. Jacobson: We will submit it.

The Court: The matter may stand submitted. While I have given a good deal of study to the matter and studied every case that has been published, I feel I want to give it further thought and further study and it well may be if my present intentions can be carried out, as I have all the material right at hand and it is fresh in my mind, I might write a short

opinion determining the matter and you will receive proper notice through the clerk.

I want to say, gentlemen, a case of this character usually develops animosity. There is a good deal of feeling in the matter. I think counsel on both sides should be congratulated for the dignified manner in which it was conducted, in which they conducted the case. I think the witnesses did the same thing. I think the defendant probably allowed his emotionalism to get the better of him once or twice, and I want to warn him there are some judges who would not tolerate a person calling another witness a liar in open court even if you think he is. It is not in accordance with our sense of decorum or sense of propriety, because you can say, "It isn't so," or, "I do not think so." But to just shout "liar" with great emotion is not done in the average American court, [635] especially in the Federal Court.

Mr. Jacobson: I am sorry he said it, your Honor.

The Court: I am apologizing for him because, you see, I don't want to give him that warning. I don't want to give my biography, but I started out —I, too, was born abroad, although I was not a member of such a large family as either of you. I merely wanted to warn him in a friendly spirit that one should eschew things like that in court.

All right.

(Whereupon, at 4:00 o'clock P.M., Friday, November 20, 1942, the hearing in the above-entitled case was concluded.)

[Endorsed]: Filed February 22, 1943. [636]

[Endorsed]: No. 10387. United States Circuit Court of Appeals for the Ninth Circuit. Friedrich Walter Bergmann, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California Central Division.

Filed March 13, 1943.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals
For the Ninth Circuit

No. 10387

UNITED STATES OF AMERICA,
Plaintiff and Appellee,

v.

FRIEDRICH WALTER BERGMANN,
Defendant and Appellant.

* * * * * * * * *

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY UPON APPEAL AND DESIGNATION OF RECORD TO BE PRINTED.

* * * * * * * * *

Appellant hereby adopts and relies upon the Statement of Points filed in the District Court and

designates the entire record on appeal as necessary for the consideration of said appeal and to be printed.

Appellant desires one exhibit, to wit: appellants application for citizenship (form 26) to be reproduced, the other exhibits to be printed.

Dated: March 16, 1943.

WALHFRED JACOBSON,
Attorney for Appellant.

(AFFIDAVIT OF SERVICE BY MAIL
1013a, C. C. P.)

State of California,
County of Los Angeles—ss.

Golda Jacobson, being first duly sworn, says: That affiant is a citizen of the United States and a resident of the county of Los Angeles; that affiant is over the age of eighteen years and is not a party to the within above entitled action; that affiant's business address is: 517 Jergins Trust Bldg. Long Beach, Calif., that on the 15 day of March, 1943, affiant served the within Statement of points on which appellant intends to rely upon appeal and designation of record to be printed on the Plaintiff in said action, by placing a true copy thereof, in an envelope addressed to the attorney of record for said Plaintiff at the office address of said attorneys, as follows: "Leo Silverstein, U. S. Attorney, John Marvin Dean, Ass't U. S. Attorney, 6th Floor, U. S. Post Office and Federal Bldg., Los Angeles, California": and by

then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the United States Mail at Long Beach, California, where is located the office of the attorney for the person by and for whom said service was made.

That there is a delivery service by United States mail at the place so addressed or there is a regular communication by mail between the place of mailing and the place so addressed.

Subscribed and sworn to before me this 15th day of March, 1943.

GOLDA JACOBSON

[Seal] WALHFRED JACOBSON,

Notary Public in and for said County and State of California.

[Endorsed]: Filed Mar. 17, 1943. Paul P. O'Brien, Clerk.